

104  
**NUCLEAR WASTE POLICY ACT AMENDMENT**

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Y 4. R 31/3: 104-41

**RING**

*Nuclear Waste Policy Act Amendment,...*

ORE THE

SUBCOMMITTEE ON NATIONAL PARKS, FORESTS,  
AND LANDS

OF THE

**COMMITTEE ON  
RESOURCES**

**HOUSE OF REPRESENTATIVES**

**ONE HUNDRED FOURTH CONGRESS**

**FIRST SESSION**

**ON**

**H.R. 1020**

**A BILL TO AMEND THE NUCLEAR WASTE POLICY ACT OF 1982**

\_\_\_\_\_  
OCTOBER 10, 1995—WASHINGTON, DC

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**Serial No. 104-41**  
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Printed for the use of the Committee on Resources



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# NUCLEAR WASTE POLICY ACT AMENDMENT

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TUESDAY, OCTOBER 10, 1995

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND LANDS, COMMITTEE ON RESOURCES,

*Washington, DC.*

The subcommittee met, pursuant to call, at 9:00 a.m. in room 1324, Longworth House Office Building, Hon. James V. Hansen [chairman of the subcommittee] presiding.

Mr. HANSEN. The committee will come to order.

## STATEMENT OF HON. JAMES V. HANSEN, A U.S. REPRESENTATIVE FROM UTAH AND CHAIRMAN, SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND LANDS

The subcommittee meets this morning to consider provisions of H.R. 1020 under the jurisdiction of the Subcommittee on National Parks, Forests and Lands.

I want to make it clear at the onset that this subcommittee and the full Resource Committee has no jurisdiction and therefore no control, over the vast majority of H.R. 1020, a bill introduced by Mr. Upton of Michigan to designate an interim storage facility for nuclear waste in Nevada. As many of you know, site characterization is currently under way at Yucca Mountain, Nevada, as a result of the 1987 amendments to the Nuclear Waste Policy Act of 1982.

The issue of nuclear waste disposal is one which we in the West have a high degree of sensitivity to and concern about. Members of this committee, as well as the subcommittee chairman of energy and power of the Commerce Committee, Mr. Schaefer, who will speak in just a few moments, want to do all we can to mitigate the impact of the more difficult effects of H.R. 1020; and we hope to do so through the legislation I will offer in a few days.

Our purpose today is to hear from those at the Federal, State and local level that would be impacted by a proposal that I intend to offer at a markup later this week. That proposal would redirect the rail route for delivery of nuclear material away from the Las Vegas Valley as designated in H.R. 1020 as introduced and travel north from Caliente, Nevada, around the test site and on to a location for an interim facility near the Yucca Mountain site.

Also, the bill would allow for a heavy haul truck route for a period of five years while the rail route is being constructed.

Let me say that the committee has been in touch with the Air Force, and we are aware of their concerns regarding the heavy haul route. We have a letter from them expressing those concerns, and it will be submitted as a part of the record. We are committed to

continuing to address the issues of importance to the Air Force as we go through this process.

[The letter may be found at end of hearing.]

Mr. HANSEN. Additionally, my proposal would offer several parcels of land to the counties most directly affected by the designation of the interim facility as compensation for the adverse impact of the designation, the construction of a transfer facility and an interim facility.

Let me conclude by saying that both Mr. Ensign and Mrs. Vucanovich have been in regular contact with the committee regarding their concerns, and we look forward to continuing to work with them in the future.

Mr. HANSEN. We are privileged to have two of our colleagues with us, Mrs. Barbara Vucanovich from Nevada and Dan Schaefer from Colorado. Mrs. Vucanovich.

Mrs. VUCANOVICH. Thank you very much, Mr. Chairman.

Mr. HANSEN. Excuse me, let me also say a member of the committee and also from Nevada, John Ensign has arrived—John, as a member of the committee, do you have an opening statement?

Mr. ENSIGN. Yes, I do, Mr. Chairman.

#### **STATEMENT OF HON. JOHN E. ENSIGN, A U.S. REPRESENTATIVE FROM NEVADA**

Thank you, Mr. Chairman. First, let me begin by saying that I appreciate the efforts that you, Mr. Hansen, as Chairman of the subcommittee, and Mr. Young, Chairman of the full committee, have made to soften the impacts of this devastating legislation.

Furthermore, I understand the concerns of the utility companies and States with nuclear reactors. The storage of high-level waste has my colleagues feeling increasing pressure from the nuclear energy industry and their constituencies to remedy the situation. I agree that something must be done.

However, I absolutely and unconditionally disagree that H.R. 1020, this legislation before us today, is the solution. The storage of high-level nuclear waste is a very complex problem that faces us as an entire Nation, and the simple solution to arbitrarily select Nevada as an interim storage facility is not the answer.

As a matter of fact, Congresswoman Vucanovich and I have introduced legislation, H.R. 1924, the Common Sense Nuclear Waste Storage Act, which suggests a much more reasonable and sensible solution. H.R. 1924 cites Hanford, Washington, and Savannah River, South Carolina, as two possible locations to be considered for interim storage. The following reasons show why these two sites are more logical:

These sites already store spent fuel.

There is adequate land area.

The Federal Government already owns the land.

There is existing transportation and security infrastructure which is not present at the Nevada Test Site.

The site has a skilled work force, knowledgeable in handling high-level nuclear waste.

And the locations are in general proximity to the Nation's reactors.



Given the fact that 75 percent of the nuclear waste sites are located east of the Mississippi, the selection of the Savannah River seems to be the most obvious choice for an interim facility for this region of the country, with Hanford, Washington, being primarily responsible for the West.

As introduced, H.R. 1020 provides a transportation route through the Las Vegas Valley. This is incomprehensible. The city of Las Vegas is the fastest growing city in the country with an average population increase of almost 7,000 people per month. Billions of dollars of investments have already been designated for development of these recreational, residential and commercial areas. Thousands of waste shipments would have devastating economic and social impacts on these communities. This proposed rail spur is absolutely unacceptable to the people of the First Congressional District of Nevada. I am hopeful that the committees of jurisdiction realize the negative effects and the dangers of this legislation and diligently work to rectify the situation.

I would now briefly like to comment on certain other provisions of the Upton bill. This Congress was elected on a platform of States' rights. This bill rolls back NEPA standards, removes judicial review, and abolishes Nevada's right to even veto the final decision, completely ignoring the democratic wishes of my States' citizens. To further ease construction, the legislation exempts site selection, license application and construction from the environmental impact statement that would be required by NEPA. Furthermore, the placing of the interim site at the NTS prejudices the suitability of Yucca Mountain and casts doubt on the site characterization study's integrity. The deadline driven approach also imperils public participation, Nevada's that is, because the bill's licensing deadlines are so tight that the Commission would be unable to accept public comment.

Finally, H.R. 1020, as passed out of the Commerce Committee, contained water language that I find objectionable. As I am sure you know all too well, Nevada, like many Western States, has a substantial water problem. Given our rapid population growth, Nevada is faced with a considerable water supply dilemma. Section 502 of the Commerce Committee-passed version of H.R. 1020 creates a Federal-reserved water right which will jeopardize future water development in Nevada, resulting in catastrophic ramifications. Knowing this committee's commitment to protecting water rights, specifically in the West, I want to bring this provision to the committee's attention and express my intentions to correct this language at the appropriate time.

Mr. Chairman, H.R. 1020 is yet another example of the travesties occurring to and in the West. This legislation is the epitome of the ongoing war on the West. Once again, the West is being forced to shoulder the burden of an eastern-based problem. H.R. 1020 is not a sensible remedy. It is a "quick fix" solution that endangers the health and safety of your constituents and mine. Additionally, it threatens citizens' private property rights, something I know this committee has been committed to protecting.

This is not the last stop for this legislation. Be assured that I remain totally committed to fighting this legislation throughout the entire legislative process. The citizens of Nevada deserve a fair

shake in this battle, and I will continue to fight to allow them that opportunity.

Thank you, Mr. Chairman.

Mr. HANSEN. Well, thank you.

Seeing no other members of the committee, we will now turn to our witnesses. Mrs. Vucanovich, good to see you both this morning. We will turn at this time to you.

**STATEMENT OF HON. BARBARA F. VUCANOVICH, A U.S.  
REPRESENTATIVE FROM NEVADA**

Mrs. VUCANOVICH. Thank you very much, Mr. Chairman. I appreciate the opportunity to address you today on the topic of storing high-level nuclear waste.

We are all aware of the controversial nature of this issue as well as the need to resolve the longstanding problem of what to do with our Nation's nuclear waste. Theories and ideas abound, but the current solution has focused on placing a permanent high-level nuclear waste storage facility at Yucca Mountain, Nevada.

The Department of Energy has expended a tremendous amount of money and time in characterizing Yucca Mountain. This has become a monumental, costly and time-consuming task. While there is no doubt that a solution to our nuclear waste dilemma must be found, I don't believe the methods used thus far to find that solution have been satisfactory.

When the Nuclear Waste Policy Act of 1982 was amended in 1987, Nevada was targeted to receive high-level nuclear waste to the exclusion of all other potential sites. An objective, scientific analysis should not preclude sites other than Yucca Mountain to be studied, yet the 1987 amendments specified that Yucca Mountain would be the only potential site to be considered.

Siting the Nation's nuclear waste repository must be based on sound science and not politics. Our number one concern should be to ensure that any repository be located in the safest place possible. The 1987 amendments to the Nuclear Policy Act take us farther away from this goal. It is for this reason that I have introduced legislation H.R. 496 to prohibit additional Energy Department studies of Yucca Mountain, while the National Academy of Sciences conducts their own unbiased analysis to determine if the current process of studying only Yucca Mountain makes scientific sense or whether alternatives should be considered.

Meanwhile, the need for interim storage is clear. Electric utilities are running out of space for the storage of spent nuclear fuel at commercial reactors. The Secretary of Energy has a clear and unconditional obligation to accept the spent fuel by 1998. But the Secretary of Energy also has told us that a permanent repository will not be ready until sometime in the next century at the very earliest.

Recognizing this, the House fiscal year 1996 energy and water appropriations bill directs DOD to downgrade, suspend or terminate its activities at Yucca Mountain. The Department is further directed to concentrate available resources on the development and implementation of a national interim storage program.

Mr. Chairman, while Nevada labors under the gun of Yucca Mountain, a second attack is being formulated by the nuclear in-

dustry on Nevada again. The industry wants to change the law to allow storage of nuclear waste on an interim basis in Nevada. This is what H.R. 1020, the bill before the subcommittee today, would do.

I urge you and your colleagues to take a careful, objective look at this issue. I am opposed to this approach, and John Ensign and I have offered an alternative to this legislation in H.R. 1924, which would designate two interim storage sites, one in the East and one in the Western United States.

I believe this is a more logical approach for both safety and economic reasons. Even nuclear industry representatives will grudgingly agree that Nevada makes no sense economically or scientifically as the location for interim waste storage. Their only reason for preferring Nevada is that it seems politically expedient.

I am joined in my thinking by Senator Frank Murkowski, Chairman of the Senate Energy Committee, who has expressed similar views about the future siting of an interim waste facility. The common sense criteria we have put forth for an interim storage site are as follows:

Spent nuclear fuel should already be at the site. There is no waste at the Nevada Test Site.

There should be an adequate land area, and the Federal Government should already own the land. NTS certainly has land.

There should be a transportation infrastructure already in place. This would have to be built at a very high cost if interim storage is at the Nevada Test Site.

Likewise, there should be a security infrastructure already in place. Nevada Test Site has this.

A skilled work force familiar with handling nuclear materials should be available, and nuclear safety and worker protection infrastructure should be in place. This is not available at the Nevada Test Site.

The location should be in general proximity to the Nation's nuclear reactors. That is, one for the East and one for the West. In fact, the 1982 act required two repositories. Nevada Test Site is about as far removed from reactor sites as you can get.

Finally, the new economic activity associated with spent fuel management should, if possible, offset concurrent job losses.

H.R. 1924 designates Hanford, Washington, and Savannah River, South Carolina, as interim storage sites. These sites meet all the criteria I have just listed, and for that reason I believe they make the most sense for interim repositories.

Mr. Chairman, a decision to site spent nuclear fuel on an interim basis should be based on sound reasoning, not on politics. The time is too short and this issue is too crucial to go down the same path that has put a permanent repository years behind schedule and millions of dollars over budget.

Thank you, Mr. Chairman, for the opportunity to appear here today.

Mr. HANSEN. Thank you, Mrs. Vucanovich.

Mr. HANSEN. Our friend from Colorado, Mr. Schaefer.

**STATEMENT OF HON. DAN SCHAEFER, A U.S.  
REPRESENTATIVE FROM COLORADO**

Mr. SCHAEFER. Well, thank you, Mr. Chairman.

It is indeed a pleasure to be here this morning. We in Congress are trying to tackle one of the Nation's most difficult and troubling issues. That is the issue of nuclear waste disposal and what we are going to do with it. I would like to make a few major points now and submit a statement for the record at a later time.

Mr. HANSEN. Without objection.

Mr. SCHAEFER. Now, first of all, this legislation has been approved by my subcommittee and the full commerce committee. I guess the point is that we must deal with this problem. The Federal Government split the responsibility for nuclear waste with the States in the early 1980's, and the States agreed to deal with low-level radioactive waste. The Federal Government assumed responsibility for high-level waste on a national basis.

Members of the Resources Committee know that the country's electrical generation system is a very complex one. Everything is interconnected. Power lines do not stop at State borders. The way our system is set up, a nuclear power plant in California may be helping to meet energy demands in Idaho or in Montana.

Nuclear waste is not just a commercial utility waste. High-level waste from defense nuclear operations is a huge component of the waste which would be deposited in a repository. Defense waste requiring repository disposal is more than twice the volume of commercial waste. Commercial is about 85,000 metric tons and defense is about 185,000 metric tons.

Nuclear weapons and propulsion units have been a major component of our national security since World War II. We need a national solution to the problems associated with disposing of these two wastes. Currently we have some 35 States across the country that have waste deposits, and some of these are at full capacity, and some of the plants are now shut down. We have to look at a solution to this particular problem.

The bill we are talking about maintains the focus on the repository program and continues to determine whether Yucca Mountain is a suitable disposal site. It establishes an interim storage facility at Yucca Mountain as well. It is important because the previous acts of Congress assumed that we would have a repository by 1998. Here we are in the latter part of 1995.

The Department of Energy has a contractual obligation to begin taking waste at that time. The interim facility will also accept eligible defense wastes, which, as I just stated, is a large portion, more than twice as much as the commercial.

Transportation is a major concern in this debate. Nuclear materials, both commercial and defense, are already transported across the Nation every day without incident.

Now let me just say, Mr. Chairman, 24 of us sitting here today are westerners. I am not exactly thrilled about this situation. Waste will travel extensively through my State, even though there are no operating reactors in Colorado. However, this is a national issue, and we do need a national solution.

Now, I want to express my appreciation and admiration for my colleagues, Mrs. Vucanovich and Mr. Ensign. If I were in their

shoes I would probably be fighting against H.R. 1020 as vigorously as they are. Our task is to ensure that the State and local governments are responsibly compensated for the difficulties created by the presence of disposal activities.

In the Commerce Committee, we modified the existing structure of payments to the State to ensure that the local governments would have sufficient resources to deal with the infrastructure and related problems posed by the bill's provisions. In this committee, you have the opportunity to further address this situation.

I believe that turning back a responsible portion of federally owned land in Nevada to the State is an important component of a balanced bill. I know your draft addresses this issue and that Mr. Young may offer an amendment at full committee to turn additional lands back to the States. As a westerner I am fully supportive of getting these lands off the Federal dole and back to the States. I look forward to seeing how these proposals will fit with the overall package.

In conclusion, I just want to reiterate that this is not an eastern problem or a utility problem. It is a national problem, and it deserves a nationwide solution, whatever that may be, Mr. Chairman. I appreciate very much you taking this very difficult situation up as we did in the Commerce Committee.

Mr. HANSEN. Thank you very much for your testimony.

Mr. HANSEN. I appreciate that yesterday I saw an article in the Las Vegas papers, Senator Reid had put that in, talking about the President vetoing interim storage. What is this, Barbara? Are we just political posturing again? We hear that on every third piece of legislation that makes its way down there to the waffle house—excuse me, the White House.

Mrs. VUCANOVICH. I think most of us have absolutely the same thoughts as those concerned. The governor, who is a Democrat, and our two senators have been as adamant as we have in opposition to interim storage; the President had told the two senators that he didn't think it was a good idea, and so I think they just reiterated that to him. As I remember, Mr. Ensign and I wrote a letter to the President also, saying, since you said that, we hope you will carry through.

Mr. HANSEN. No disrespect to the President, but I could name a lot of pieces of legislation that that threat came along on and nothing materialized, and two that I handled in the 103rd session of Congress to right up to three days before it was a veto and then it turned out that he signed it. I won't get into that.

Mrs. VUCANOVICH. We won't try to solve that political problem here today. We want to settle the political problem that Nevada is targeted for nuclear waste.

Mr. HANSEN. One we all face, isn't it? I have the same concerns that Chairman Schaefer and Chairman Vucanovich have regarding this thing. My little State of Utah is sandwiched right between you two, and we have those concerns, yet we have to be realistic enough to know what to do with them.

Before long, we are all going to be facing the problem of what do we do with chemical and biological warfare that is now obsolete, that has to be demilitarized somewhere. We will be facing it. We

will go down the same road again, which is a very unpleasant thing to look at.

John ENSIGN, do you have anything you want to talk to these two about?

Mr. ENSIGN. Thank you, Mr. Chairman.

Mr. Schaefer, understanding that this is a national issue, there are a couple of solutions for nuclear waste out there, and having been sworn in on January 4th, I did not realize nearly as much before I got here how much of just a purely political issue nuclear waste is. Science seems to have nothing to do with the issue.

Looked at from a budgetary standpoint and from a scientific standpoint, Nevada is probably the least attractive place to put nuclear waste, especially for temporary storage. If you are looking at temporary—I mean, from a budgetary standpoint it is much cheaper to locate the site at Hanford and Savannah River.

Now, politically, it isn't because they have a lot more electoral votes and obviously a lot more powerful chairmen, especially on Armed Services, than Nevada does; but purely from a budgetary, scientific, safety, and an environmental standpoint it makes much more sense to locate interim storage at Hanford and Savannah River.

Mr. SCHAEFER. Well, in the first place, let me just make it very clear that the dollars that we are talking about here, some \$6.6 billion that have been paid in by the ratepayers of the people who get their nuclear power by one mill per kilowatt, is what we are talking about. It is not tax dollars. And so, therefore, we are making a huge mistake by saying that this should be into the general fund.

Mr. ENSIGN. Will there be enough dollars to finish Yucca Mountain without the taxpayers kicking in?

Mr. SCHAEFER. Well, that is certainly the position of the sponsor of the bill and of all testimony that I have seen at this point in time. Now we did change the funding mechanism of the original proposal to ensure that these dollars would be provided by the appropriators over a period of years necessary to do this.

Now the gentleman from Nevada—I have to tell you, I am not a cosponsor of this bill. I am doing this simply because we are trying to find a solution to the problem. If the gentlelady and the gentleman from Nevada can come up with another solution—

Mr. ENSIGN. We have.

Mr. SCHAEFER. Well, I fully understand that.

Mr. ENSIGN. H.R. 1924.

Mr. SCHAEFER. I fully understand that, but I would hope that this would come somewhere along the line.

Mr. ENSIGN. My biggest concern is interim storage because my personal belief is that interim storage is going to become permanent. I think whoever ends up with the interim de facto is going to be permanent storage because of just the political and the budgetary ramifications. Because anything that the government sets out to do, something like Yucca Mountain, you are seeing the cost overruns, you are seeing the projections into the future, and if they are already projecting the cost overruns as high as they are out there, the costs are going to get so high that interim is going to, in fact, become permanent. So my biggest fight right now is with interim storage waste.

If we did look at permanent storage from a budgetary standpoint and really from a logical and scientific standpoint, dry cast, on-site storage is the best thing to do, especially if we are looking at retrievability in the future and reusing this nuclear waste. And so there are several solutions that are being proposed out there that are better from a scientific standpoint, they are better from a budgetary standpoint, but they are not better from a political standpoint. That is what we from Nevada have been saying. Not only do we think it is inherently unfair to target one State that hasn't had the benefit from nuclear power, we are also saying that from no other standpoint other than politics does it make any sense to bring this stuff to our State.

Mr. SCHAEFER. Well, I would think that the gentleman would be open to ask questions of some of the other members.

Mr. ENSIGN. I agree.

Mr. SCHAEFER. The panel that is going to scientifically—

Mr. ENSIGN. I agree. I am sorry that I have been getting on you so much, but when I was in front of your committee none of the members on your committee could answer these questions. None of them had answers to these questions.

That is what I am saying. This whole thing is, basically, a political ramrod to the State of Nevada, and it is absolutely as wrong as it gets. That is what we, as a new freshman class that came in and we as a majority, say that we want to change this business as usual up here, and this is the same old stuff that has been going on.

Thank you, Mr. Chairman.

Mr. HANSEN. Thank you.

Our friend from Puerto Rico, Mr. Romero-Barceló, do you have any questions to our two colleagues?

Mr. ROMERO-BARCELÓ. No.

Mr. HANSEN. Thank you. I appreciate our colleagues being with us. You are welcome to join us on the dais. We appreciate having you. We know how busy we all are. Thank you very much for your excellent testimony. We appreciate it.

Our next panel is Mr. Daniel Dreyfus, Director, Office of Civilian Radioactive Waste Management, Department of Energy—if Mr. Dreyfus would come up—and Maitland Sharpe, Assistant Director, Resource Assessment and Planning, Department of the Interior. Good to see you both again.

Mr. Dreyfus and Mr. Sharpe, would you like to tell me how much time you need for your testimony?

Mr. SHARPE. Perhaps five minutes, no more.

Mr. DREYFUS. I can certainly summarize in five to 10 minutes.

Mr. HANSEN. Ten minutes?

Mr. DREYFUS. Yes, sir.

Mr. HANSEN. Mr. Sharpe?

Mr. SHARPE. Five minutes perhaps.

Mr. HANSEN. Five minutes. Ten minutes for Mr. Dreyfus. Five minutes for Mr. Sharpe. And if he goes over a minute and a half, don't ring the bell on him.

We will turn to you, Mr. Dreyfus. Again, thank you, sir, for being with us. We appreciate you being here.

**STATEMENT OF DANIEL DREYFUS, DIRECTOR, OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT, DEPARTMENT OF ENERGY**

Mr. DREYFUS. Thank you. I appreciate the opportunity to testify. I ask that my prepared statement be included in the record at an appropriate place. I will summarize the highlights.

The Administration has not yet developed a formal position on H.R. 1020. My testimony is limited, therefore, to the history and the status of the existing program as requested in your letter and to the practical considerations of the proposed legislation.

The U.S. has an inventory of spent nuclear fuel produced by some 118 operating and shutdown reactors in 34 States. Existing storage facilities at commercial utility reactor sites are reaching their full capacity. Today, seven utilities already are providing additional dry storage for spent nuclear fuel equivalent to some 600 metric tons of uranium or MTU measure of high-level radioactive waste. By 2010, the earliest time in which we could expect to begin to emplace waste in the geologic repository, the figures for dry storage would rise to 55 utility reactor sites in 30 States needing dry storage for about 11,000 MTU.

Without an interim storage or final disposal facility, extended at-reactor storage for many decades could become necessary. This is a scenario that was never envisioned by the communities near existing nuclear power plants, the State public utility commissions that authorized investments in those power plants, utilities who constructed them, the Nuclear Regulatory Commission that licensed them or the Congress when it established a Federal responsibility for accepting the waste.

Similarly, the high-level radioactive waste resulting from the cleanup of many of our nuclear weapons production sites and the other high-level radioactive wastes owned by the Federal Government, including spent fuel from research and Naval propulsion reactors, also require a path forward leading to a sound disposal strategy.

In 1982, Congress enacted the Nuclear Waste Policy Act, confirming the Federal responsibility to manage the disposal of commercial spent fuel and adopting the strategy and geologic disposal as the long-term solution.

The Act also included provisions to finance a nuclear waste program through a fee on consumers of nuclear energy.

In 1987, the Congress amended the Nuclear Waste Policy Act. Among other provisions, the amendment directed the Department to limit the repository program to the evaluation of the Yucca Mountain site's suitability. The amendment also restricted the Department's authority to site and develop interim storage.

With the fiscal year 1995 appropriation, Congress supported our proposal for a new program approach for the repository investigation. In my prepared statement I have discussed the progress we made in the past year, and I appreciate the House Commerce Committee's recognition in its report on this bill of that progress.

Had we received the fiscal year 1996 appropriation we requested, the program would have reached a conclusion on technical site suitability in 1998; and if the site was suitable we could have begun emplacement of waste in 2010. Both the House and Senate Appro-



priations Committees recognize that the level of the 1996 appropriation will no longer support that schedule.

H.R. 1020 would authorize and direct the Secretary to expedite the development of an interim storage facility near the Yucca Mountain site with a target of acceptance of commercial spent fuel by 1998. It directs the Department to continue the site characterization for a permanent repository, and it designates the construction of a rail spur from the main rail line at Caliente, Nevada, to the interim storage facility site.

The Nuclear Waste Policy Act, as amended, does not provide for the withdrawal of Federal lands for the ongoing scientific and technical investigation of the Yucca Mountain site. That work is being carried out under right-of-way reservations and land withdrawals pursuant to the Federal Land Policy Management Act.

In January of 1988, a right-of-way reservation was issued by the Bureau of Land Management to the Department for site characterization activities on 51,600 acres of land. This reservation expires in 2001.

In 1989, a right-of-way reservation was issued by the BLM for site characterization for an additional 18,700 acres of land that had been withdrawn by the BLM for use of the U.S. Air Force. The Air Force has concurred in that reservation, which will also expire in 2001.

In September of 1990, a public land order withdrew approximately 4,000 acres of land to preserve the integrity of the potential repository site for mining claims. This land is part of an earlier right-of-way reservation.

Site characterization activities are also conducted on the Nevada Test Site which was withdrawn from public use for the Atomic Energy Commission, predecessor of the Department. Activities on these lands are allowed under a memorandum of agreement between the Yucca Mountain Site Characterization Office and the Department's Nevada Operations Office.

Because the generic authority limits the administrative withdrawal period of Federal lands to a maximum of 40 years, the construction of a repository at the Yucca Mountain site would eventually require legislative action for the permanent withdrawal of land for this purpose.

The land withdrawals proposed in H.R. 1020 generally follow the provisions of the Federal Land Policy and Management Act. They are, however, not subject to the 40-year restriction.

Section 201 directs the Secretary to acquire rights of way and withdraw public lands as necessary within the "Caliente route" for the construction and operation of transportation facilities and associated activities. It also directs the Secretary to provide for the replacement of land and city wastewater disposal activities necessary to commence intermodal transfer activities no later than January 1998. Section 206 addresses land withdrawal for the repository and the interim storage facility.

These sections direct the Secretary to publish, within six months of the bill's enactment, **Federal Register** notices containing legal descriptions of the Caliente route, the sites and rights of way to be acquired for the intermodal transfer facility and the land to be withdrawn for the interim storage facility.

With regard to the repository, Section 206 further requires the Secretary to publish, concurrent with an application to the Commission for a license for the repository, a legal description of the Yucca Mountain site.

The program would need to seek congressional land withdrawal authority for the geologic repository site and the necessary transportation access routes sometime in the future should the site be found suitable for repository development. The Federal landownership patterns in and around Yucca Mountain are complex. If additional authority for the program is enacted to provide for interim storage, a related rail access spur and an intermodal transfer facility, such as H.R. 1020 contemplates, that legislation should also provide for the necessary withdrawal of public lands. Failure to provide such authority could lead to protracted delays in recognizing the intent of the legislation.

Thank you, Mr. Chairman. That completes my summary. I am prepared to answer questions.

Mr. HANSEN. Thank you, Mr. Dreyfus.

[The prepared statement of Mr. Dreyfus can be found at the end of the hearing.]

Mr. HANSEN. Mr. Sharpe, we will turn the time to you, sir.

**STATEMENT OF MAITLAND SHARPE, ASSISTANT DIRECTOR,  
RESOURCE ASSESSMENT AND PLANNING, DEPARTMENT OF  
THE INTERIOR**

Mr. SHARPE. Thank you, Mr. Chairman. It is a pleasure to be here today and have the opportunity to testify on this bill.

We have been asked by subcommittee staff to comment on proposed amendments that would transfer a number of parcels of public land managed by the Bureau of Land Management to Nye and Lincoln Counties in Nevada. Although we were provided earlier this week with the legal descriptions of these parcels, we have not yet received copies of the full substantive amendments. Accordingly, we don't know the terms and conditions of the transfer and are, therefore, hampered in providing specific comments. My comments are, therefore, general in nature and based upon a review of the lands proposed for transfer.

A cursory review of the legal descriptions provided by the subcommittee reveals that several of these parcels have been identified through the BLM planning process as suitable for disposal. However, other tracts are encumbered by mining claims, grazing allotments, airport leases and the like. Furthermore, some parcels are already being utilized for public purposes by both the State of Nevada and Nye and Lincoln Counties under leases issued pursuant to the Recreation and Public Purposes Act, while others are subject to pending R&PP applications.

The Recreation and Public Purposes Act provides an administrative means by which public lands can be leased or patented at nominal cost to State and local entities for recreational and other public purposes. Such conveyances reserve minerals to the United States, require that the lands be used for specific public purposes, prohibit the sale of the land and contain a reverter to the United States in the event that the lands are not used for the intended purpose. These limitations protect the public interest in the use of

public lands while at the same time providing for the public and recreational needs of State and local governments. We believe this system has worked well for all entities involved and would suggest that any legislative conveyances adopt those general guidelines.

Earlier this morning Representative Schaefer indicated that amendments may be forthcoming that would transfer larger quantities of public land to the State of Nevada or to counties within the State. While we have not seen the text of such amendments, we urge that any such substantive change not be included in this legislation without a hearing and an opportunity for the Administration to supply comments after a thorough review of the proposal.

Thank you again for the opportunity to testify.

Mr. HANSEN. Thank you very much, Mr. Sharpe.

[The prepared statement of Mr. Sharpe can be found at the end of the hearing.]

Mr. HANSEN. I appreciate both of you being here. I have just a few questions, if I may.

Mr. Dreyfus, what other uses of the railroad route would be allowed?

Mr. DREYFUS. There has been no determination or even any consideration of that at this point.

Mr. HANSEN. Do you assume that is something that would be considered at a later time?

Mr. DREYFUS. Certainly. I think if there were a railroad what uses were possible would be considered. There would have to be restrictions, of course.

Mr. HANSEN. At this particular point we really have no way to determine what percent of what would be predicated on needs of the area and what goes into the State as far as waste?

Mr. DREYFUS. Well, it is a very rural area. There are, of course, possibilities of utilization of that railroad for defense purposes or for other uses of the test site; and whether there would be commercial interests or not remains to be seen.

Mr. HANSEN. What type of agreement would be necessary between the Department of Energy and the Air Force for heavy haul and for railroad?

Mr. DREYFUS. Well, we have had only a few discussions with the Air Force concerning heavy haul as a result of this proposal and this legislation. As I understand the situation, the route that is contemplated in the legislation is one that the Air Force feels is workable. It has concerns about limitations on its operations and concerns about remaining outside of very sensitive classified sites. I think we can satisfy those concerns. We would have to have an operational plan to avoid interference between the actual shipments and the Air Force operations of the gunnery range.

Mr. HANSEN. Last night I was trying to get up to speed on this a little bit. Maybe I read this wrong, but H.R. 1020, there is language prohibiting you from moving forward on the multipurpose canister project. Is this the appropriate thing to do?

Mr. DREYFUS. We have a multipurpose canister program which is subject to several checkpoints. It is a program that is undertaken in steps.

The step we are currently in is a design phase. At the end of the design phase we would—and the procurement provides for this—

we would then consider certification of the canister systems and the construction of prototypes, and that would be a separate phase. At the end of that, we would consider whether or not the Federal Government ought to procure such canisters or leave that to the marketplace.

In my judgment, we need another generation of technology which we do not now have, and it is an appropriate program, and I think it should be left to the Department to make the decisions about going forward with the phases in the normal course as we planned.

Mr. HANSEN. Well, where are you? Do you have a time line on this design phase that you were just referring to or is that still a little nebulous?

Mr. DREYFUS. The design phase would be completed early next year, and we would, given the authorization and the funding, be considering whether or not to proceed with certification during the course of fiscal year 1996. Now the budget itself may preclude that, but the language of 1020 would certainly preclude it.

The second phase would be to certify two sizes of canisters with the Nuclear Regulatory Commission. The final phase would be actual procurement of canisters and that would be a couple of years further out.

Mr. HANSEN. So a lot of this is predicated, after the design phase is over, on what Congress does as far as money and appropriation and giving you directions, would that be correct?

Mr. DREYFUS. Well, if H.R. 1020 were enacted, of course, we would be precluded from going forward beyond the design phase. And I don't know what the budgetary considerations might be, but we would also be looking at the results of the design phase and the utility and the cost aspects of whether to go forward at that time.

Mr. HANSEN. Thank you, Mr. Dreyfus.

Mr. Sharpe, please describe and discuss the status of the parcels of land listed in the draft language shared with you by staff last week, if you would, please.

Mr. SHARPE. Yes, Mr. Chairman.

Briefly, the overview, the parcels that are under consideration for transferring what I believe is potentially your amendment are located in two counties, Nye County and Lincoln County, Nevada. The BLM State office in Nevada has had an opportunity to look at the parcels located in Nye County and, in general, had determined that there are no major conflicts between existing land uses, leases or other claims in connection with those Nye County lands that are proposed for transfer. There are some relatively minor conflicts that have been surfaced, but in our view those can be successfully mitigated.

In terms of the lands in Lincoln County, a very preliminary examination by the State office leads us to believe that there will be some conflicts there, somewhat more severe conflicts with some existing R&PP leases, with some mining claims and other established uses. However, we believe that those conflicts are ones that we can work out, given a little bit more time to do it.

If you have specific questions area by area, I would be happy to try to respond to those. Other than that, I might just turn to the Lincoln County lands and point out that in terms of the proposed Pioche community growth area we anticipate resource conflicts

with a portion of the Wilson Creek wild horse herd management area that falls within that area proposed for transfer.

In the Panaca community growth area of about 2,480 acres, that has been identified for disposal within the BLM planning process when the need for it can be demonstrated. The resource conflicts there stem from the fact that the area is heavily laden with mining claims and that it has grazing allotments and at least one candidate plant G&E species.

The Alamo community growth area, 2,560 acres, is also identified for disposal when need can be demonstrated. There are some conflicts there as well with G&E habitat, desert tortoise habitat—although not critical desert tortoise habitat—and existing grazing allotments.

The Rachel community growth area proposed 1,280 acres, again, slated for disposal when need can be demonstrated, impacted by some conflicting mining claims, existing grazing allotment, and the sometimes extraterrestrial viewing area.

The proposed Pioche landfill, 1,280 acres, again identified for transfer when the local government can show a definite need for it. There are some private lands located within both sections of that tract. The Pioche landfill, 640 acres, again, identified for disposal when need is demonstrated. Conflicts include historic erosion features, geologic features and existing grazing allotment.

Mr. HANSEN. Of all these parcels, what would be the cost to the government on these?

Mr. SHARPE. I think the cost to the government would be primarily from the administrative work of effecting the transfer, and in a few cases some changes to the land use management plan might be needed. And, in addition to that, there would be a minor loss of revenue from existing grazing allotments and potentially from a few other mining claims, and that is all.

Mr. HANSEN. So to make those parcels suitable, the things you just reiterated would be a management plan, grazing, whatever it may be. Is there anything else you would need to do to make it suitable for transfer?

Mr. SHARPE. Not that I know of in terms of the ones that I have reviewed for you this morning. There is, in the case of the Hiko landfill proposed, a concern on the part of our land managers in Nevada that we maintain access for the public to the Mt. Irish archaeological district. There is an existing road there providing public access along, and our field people feel strongly that that access should be maintained for public use.

Mr. HANSEN. Thank you.

We are honored to have our Ranking Member, Mr. Richardson of New Mexico, join us. Mr. Richardson, we have gone through our colleagues. This is the first panel, Dr. Dreyfus from the Department of Energy and Maitland Sharpe from the Department of BLM. We turn the time to you, sir.

Mr. RICHARDSON. Thank you, Mr. Chairman. I will insert my statement in the record, and if I could just proceed with some questions.

[The statement of Mr. Richardson follows:]

STATEMENT OF HON. BILL RICHARDSON, A U.S. REPRESENTATIVE FROM NEW MEXICO

Mr. Chairman, having just returned to the Commerce Committee, I did not have a chance to participate in that committee's consideration of H.R. 1020. This is a very important subject, one in which we should exercise extreme care and caution. That is especially true with the public lands withdrawals and proposed land transfers we will be considering in connection with this legislation. Nuclear waste policy is not only a public health and safety issue but also involves questions of land management and resource protection.

It is with this in mind that I believe we have to look carefully at the proposals being made. For instance, how many acres of public lands are proposed to be withdrawn or transferred in connection with legislation? Are there any resource or land management problems associated with the proposed withdrawals and transfers. I understand that there are private lands interspersed with these public lands and that these lands may contain utility corridors, mining claims and grazing allotments. Who would be legally liable for these prior existing rights and what would be the extent of that liability?

These are important questions, Mr. Chairman. Like everything associated with nuclear waste policy, there are usually no easy answers. I am very interested in the testimony of our witnesses and hope that they can shed some light on these questions.

Mr. RICHARDSON. Mr. Dreyfus, who would be legally responsible for the prior existing rights on the public lands proposed to be transferred to Lincoln and Nye Counties?

Mr. DREYFUS. I think probably my colleague should take that one on rather than I.

Mr. SHARPE. Well, Congressman, as I understand it, the Federal Government would be liable for the cost of extinguishing the valid existing mining claims and any other private property rights within these areas if indeed the entire tract were to be transferred. If the tract were to be transferred minus any private inholdings and subject to valid existing rights, then there would be no such costs.

Mr. RICHARDSON. Now, is it true that there are private lands and utility corridors, mining claims and grazing allotments within the land proposed to be withdrawn or transferred?

Mr. SHARPE. There are some of those, yes.

Mr. RICHARDSON. Now, isn't it true that the Federal Government has had to sue Nye County because the county refuses to recognize that the public lands in Nevada belong to the entire United States?

Mr. SHARPE. That question is now being litigated, yes.

Mr. RICHARDSON. But hasn't the Federal Government sued?

Mr. SHARPE. I am not certain whether the Federal Government sued Nye County or vice versa, but the question is now in court.

Mr. RICHARDSON. Apparently, the staff informs me that the Justice Department filed suit.

Mr. SHARPE. The Justice Department filed suit.

Mr. RICHARDSON. So my question is, why should the Federal Government transfer any public lands to Nye County when the county doesn't recognize the Congress' authority to provide for the management of public lands within Nevada? Why would we transfer lands to Nye County if they believe that congressional action would be invalid?

Mr. SHARPE. Well, I suspect they might find that congressional action valid.

Mr. RICHARDSON. But we are still prepared to proceed with transferring this land to Nye County—we being the Federal Government?

Mr. SHARPE. Well, we being the Bureau of Land Management certainly would go ahead with administering and effecting these transfers if instructed to do so by the Congress.

Mr. RICHARDSON. Now, how many acres of public lands are proposed to be withdrawn for the interim storage facility? How many acres for the transportation corridor?

Mr. SHARPE. I don't know the acreage figures. I am not sure that has been determined. The issue on the transportation corridor in terms of land management and the impact on other public uses stems not from the total acreage so much as from the great length and linearity of the corridor. And if that corridor is brought into being in the form of a withdrawal, then that raises the specter of large tracts of public lands being isolated such that the Bureau is not in a position to effectively manage those lands and such that existing public uses of those lands are cut off.

A right-of-way rather than a withdrawal would permit us to continue to administer the adjacent lands for public uses, multiple use as we have in the past, and would provide the public now using that area with guarantees that they would be able to continue to use the area and that there would be rights for crossing traffic; and we would be in a position to continue to process and permit gas pipeline rights-of-way and telephone lines and so forth.

Mr. RICHARDSON. Now, who would be legally responsible for the prior existing rights on the public lands that are proposed to be transferred to Nye and Lincoln Counties? What is the Federal Government's potential liability? I asked you that before, or is it your preference to respond in writing to that?

Mr. SHARPE. I would prefer to respond in writing to that because I would not want to get it wrong.

Mr. RICHARDSON. I have dealt with you in the past, and I think you are a very responsible and good public official.

Let me conclude with one question to Mr. Dreyfus, if I could. Mr. Dreyfus, the Commerce Committee substitute which I think is the text that we are referring to, if you could dig it out or maybe the staff could pass it on to you. Look at page 42.

Mr. DREYFUS. The text that I have before me is the report. I don't have a copy of the bill as printed.

Mr. RICHARDSON. Look at section 207, page 42; I wanted to ask you a question. My understanding is—this is not this committee's jurisdiction, but is the other committee that I serve on, Commerce's jurisdiction.

I wanted to ask you, what in your judgment that section 207, private storage facilities—what this meant, Commission Action: "Upon application by one or more private entities for a license for an independent spent fuel storage installation not located at the site of a civilian nuclear power reactor, the Commission shall review such license applications and issue a license for one or more such facilities at the earliest practicable date to the extent permitted by the applicable law and regulations."

As you may know, in New Mexico, we are the unproud recipients of a potential commercial high-level nuclear waste storage facility at the Mescalero Reservation in southern New Mexico. I am sure you are aware of that.

Mr. DREYFUS. Yes, sir.

Mr. RICHARDSON. Does this provision here, Commission Action, mean that a facility like this would be jump-started or would receive preference? Is this section basically saying you have to build it at Mescalero? It seems that to me, and I wondered if that was your interpretation?

Mr. DREYFUS. I don't know how various parties would interpret it. It seems to me from my experience in statutory writing and reading that it is an exhortation to the Commission to do what existing law already provides. There is an ability, as I understand it, under existing law for the Mescalero proposal to receive a license from the Commission. I don't think this adds anything to the authority. It is a Congressional exhortation to do it promptly.

Mr. RICHARDSON. Mr. Chairman, that should do it. I think we have to be very careful with some of these land withdrawals and how we proceed with them. Thank you very much.

Mr. HANSEN. Thank you.

Thank you, Mr. Dreyfus and Mr. Sharpe; we appreciate your testimony. We would hope that we would be able to ask you additional questions that we could get you to answer.

Mr. HANSEN. Next are the Honorable Sue Lowden, Majority Whip, State Senator; Mark James, State Senator from Nevada; Ray Rawson, State Senator from Nevada; Jack Regan, State Senator from Nevada. Apparently Ray Rawson is not with us.

We appreciate your being here today. That is very, very kind of you. Thank you very much for being with us. We appreciate it.

Most of us came from the State legislature and appreciate your being here. I know the many agonizing times that I came back as Speaker of the Utah House to testify in front of Congress. I thought they were totally out of control.

Senator Lowden, we will start with you. How much time do you need?

Ms. LOWDEN. Five minutes, sir.

Mr. HANSEN. You know the rules, you see the lights. We never cut our colleagues off whether they are from the legislature or from here, so if you go over, we will understand.

#### **STATEMENT OF HON. SUE LOWDEN, MAJORITY WHIP, NEVADA STATE SENATE**

Ms. LOWDEN. Thank you, Chairman Hansen and Mr. Richardson. My name is Sue Lowden and I am the Majority Whip of the Nevada State Senate. I sincerely appreciate the opportunity to come here and testify before you and give you some of my thoughts on legislation H.R. 1020.

I understand that the scope of the committee's jurisdiction is very limited and will therefore keep my comments brief, but I do ask that my entire statement be included in the record.

The 104th Congress marked an historic change in the way politics is handled. This new sweep of politicians brought with them a commitment to change Washington, DC. The Contract with America and the outstanding work completed thus far by the new 104th Congress has continued to reflect the promises that were made. One promise that has been continually debated is the issue of States' rights. The new Majority has continued to reiterate its commitment to giving control back to the local governments. After



all, it is the local officials who can best represent the wishes of the local communities. We, the Nevada State Legislature, have been behind you as this Congress has attempted to give the States the control they need. We have accepted the responsibility, forgone the funding and are ready to implement Federal programs such as welfare, school lunches, and medicaid, based on our own individual State's needs.

However, Congress is now addressing this legislation, H.R. 1020, that completely contradicts all the fine work you have completed. This legislation precludes Nevada from even vetoing any decision siting an interim waste storage facility within our borders. This legislation strips Nevada of its rights; those very same States' rights that have been a fundamental component of this new Congress. This legislation sets a terrible precedent by sending the message that Congress is willing to go back on their word. A commitment has been made to the States that they will be given a larger role in the issues facing their constituents. Now you risk alienating our State and setting a precedent to all States that the State role is important only when convenient. When there are rough political decisions, the Feds step in and take over.

H.R. 1020 is a political fix that has not been properly or thoroughly evaluated. It is being forced down the throats of Nevadans without the proper scientific, risk, economic or social considerations. I brought two of those social considerations with me today. These are my two sons who came today to be part of this.

Because of my children and generations to come, the Nevada State Legislature has repeatedly passed resolutions condemning the storage of nuclear waste materials in our State.

In the past, Nevada has contributed greatly to our Nation's cause. The Nevada Test Site was used to detonate bombs. I visited the Air and Space Museum at the Smithsonian yesterday and was reminded of the role Nevada played in World War II; in your State as well, Mr. Chairman. Nevada certainly did not balk when the Federal Government called upon us. We have done our share in helping to solve our Nation's problems. We should not also be held accountable to solve the high-level nuclear waste problem. When is enough, enough? This waste was created by nuclear reactors outside of our State. Our answer to energy in the future is solar, geothermal or even wind. Give us the tools to go forward with these alternatives. Please don't let us become the dump site for nuclear waste generated elsewhere.

I caution the members of this committee and the entire Congress, there are more viable solutions to our Nation's high-level nuclear waste storage problem, such as I just mentioned. Establishing a temporary dump site in Nevada while at the same time continuing the study whether to put one at Yucca Mountain is a little bit like being pregnant while at the same time deciding whether or not you want to have a baby. It is a little too late.

I understand that Congressman John Ensign and Congresswoman Barbara Vucanovich have introduced legislation H.R. 1924, that adequately and more sensibly addresses this complex problem. I challenge this Congress to weigh all the alternatives equally and carefully consider all the ramifications of the outcome.

Thank you, Mr. Chairman.

Mr. HANSEN. Thank you, Senator Lowden. We appreciate your testimony and we welcome your sons to the Nation's Capital and hope they enjoy themselves while they are here.

[The prepared statement of Ms. Lowden can be found at the end of the hearing.]

Mr. HANSEN. Senator Regan.

#### STATEMENT OF HON. JACK REGAN, NEVADA STATE SENATE

Mr. REGAN. Thank you, Mr. Chairman. I am glad you made it back from Salt Lake and missed the fire in the airport last night.

My name is Jack Regan. I am the Minority Whip of the Nevada State Senate. I am a founding member also of the Nevada Nuclear Waste Study Committee and have been appointed recently to the Legislative Committee on Nuclear Waste in the State of Nevada. I have had a long-term personal involvement with this issue, and I am pleased to have the opportunity to speak to you today of the temporary-permanent storage of nuclear waste in Nevada.

Contrary to what is being presented with regularity in the press, it appears to us in Nevada that not only is it going to happen, it is going to happen in Nevada. It is pretty obvious, if one reflects upon the previous 30-to-4 vote on this issue in the House Commerce Committee.

What does this all mean? It means that spent nuclear waste is coming to Nevada, and Nevada needs to get ready.

Let me make it clear at the outset that I am personally certainly not overjoyed at the prospect of Nevada becoming a storage site for high-level nuclear waste and that is my personal view. In the face of what appears to be a gathering momentum, a certain inevitable right is appropriate that we begin to assert equities.

For the past 50 years, Nevada has occupied a vital place in the mosaic of this country's national defense. Once again, Nevada will be making a contribution to solving a national issue. Nevadans are justifiably proud of the contributions we have made toward the national defense, but now we believe very strongly that if Nevada is to be selected as a site for interim or permanent repository, that we are entitled to some equitable compensation.

I am very pleased to have had the opportunity to meet with Chairman Don Young when he visited Nevada this spring. I was even more pleased with what he had to say. First, he said there could be no unilateral action by the Federal Government without special consideration being afforded the affected States and local governments. He said he was considering an amendment that would provide "special consideration to Nevada and affected county governments." His amendment would transfer certain parcels of public land to the State and to the counties to offset withdrawal of multiple-use public lands for waste storage and related purposes. Some of these lands would be available immediately and others would be transferable as a waste storage project proceeds. We totally agree.

Let me make it quite clear this morning that it is high time that economic benefits start flowing to our State. One of my jobs as a legislator is to provide jobs and to protect jobs. We need new jobs to replace those being lost at the Nevada test site because, right

now, DOE is in the process of laying off another hundred employees at the Nevada test site.

The Federal Government, as you well know, owns almost 83 percent of our State, yet for the past 50 years the government has withdrawn most of these lands from the public domain so that they could be used for special national defense purposes. The direct result of these withdrawals is that the land is not available for any other uses within the State of Nevada.

The growth and development of cities and towns is affected by both the lack of economic opportunities and the lack of land upon which they can expand. As Chairman Young suggested, it is entirely appropriate for Federal Government to provide the States, cities and counties appropriate parcels of land to redress the balance of public policy. I agree.

There are important issues that could be considered in the nature of Chairman Young's special considerations. First, the direct financial system for PET's, direct grants and also benefit programs. Second, land, such as an immediate conveyance to meet immediate needs for community growth and expansion for such needs as (a) business and commercial parks; (b) industrial sites; (c) commercial landfills; (d) regional airport expansion; (e) growth of our community college and university system throughout the State and (f) a subsequent land conveyance which is equitably related to the portion of Federal land used for the Nevada test site Nellis complex, Yucca Mountain and the wilderness areas.

Third, university involvement: The university and community college system of Nevada should have a higher and greater role in the scientific oversight. I have been personally disappointed in what Mr. Bob Lutz and his agency for nuclear projects has done. We think the money we get from the waste fund should be used for oversight and not to run an antinuclear program throughout the State.

Finally, we believe that Nevada should be entitled to some kind of preferences in terms of future and present R&D efforts, purchasing and siting of government facilities related to the test site and/or waste storage facilities.

In summary, let me commend this committee for dealing forthrightly with this issue. Let me also thank Chairman Don Young for being so foresighted in encouraging a balance of the public land policy between the Federal Government and affected States and counties. We hope that this equity and fairness will characterize the entire process that will mean the mutual needs of all parties can be accommodated.

Thank you.

Mr. HANSEN. Thank you. We appreciate your being here.  
Senator James.

#### STATEMENT OF HON. MARK JAMES, NEVADA STATE SENATE

Mr. JAMES. Thank you, Mr. Chairman. My name is Mark James, and I am a Nevada State Senator. I appreciate the opportunity to be here to provide input on this extremely important legislation, and I would just note and I want to remind the committee that Nevada's legislature has repeatedly and by overwhelming majorities

come down on the side of opposing the siting of nuclear waste in Nevada either in permanent or temporary storage.

The legislation before this committee poses significant adverse impacts on my State, Mr. Chairman. H.R. 1020 will have devastating repercussions on the health and safety of our citizens, our travel and tourism industry and Nevada's ability to develop its very limited water supply; and I believe this legislation adversely affects many other States as well, in ways that perhaps they haven't considered.

I am a water and environmental lawyer by profession, and as a member of the Nevada State Senate, I have an acute understanding of the water and environmental problems facing our State. Mr. Chairman, as a Member from Utah, I am sure that you are very knowledgeable on the importance of water in Nevada, as in all western States.

I am very concerned that the Commerce Committee has included language which I interpret as violating State primacy over water rights. The Nevada Legislature has repeatedly and emphatically asserted Nevada's long-recognized right to determine the development and use of Nevada's scarce water resources by all persons, including the Federal Government. To weaken that vital right of the western States in this bill is a frightening precedent. This matter should be addressed by the House Resources Committee, rather than the Commerce Committee, and I hope that you, Mr. Chairman, and the members of this committee will take the necessary legislative action to ensure that Nevadans will continue to maintain primacy over this precious and invaluable resource.

This is a project that is being forced upon the people of Nevada. This is an issue that is being forced by political expediency rather than sound researched science.

The Nuclear Waste Policy Act of 1982, as you know, granted the State selected as a repository the right to reject the dump. This at least embodied a commitment by Congress to respect Nevada's rights and involve Nevada's citizens in the siting process.

This legislation, H.R. 1020, abandons this commitment and creates what amounts to a permanent storage site for nuclear waste, certainly as far as our lifetime and our children's lifetimes are concerned. In short, if Congress passes H.R. 1020, it will be, in effect, welshing on its original commitment to respect the rights and the wishes of the people of Nevada.

Finally, I would like to briefly address an issue that does not just affect Nevada, but affects many other States including eastern States. That issue is the transportation of nuclear waste. It is an issue which affects four-fifths of our States. In fact, if an interim storage facility is sited in Nevada, nuclear waste will be transported through 43 States. The amount of waste shipped to a repository in the first full year of its operations alone will exceed the total amount shipped in the United States in the past 30 years, something like 10,000 rail shipments over the next 40 years or, alternatively, over 40,000 truck shipments during the same 40-year period.

If the interim storage facility is located in Nevada, the average trip length will traverse an average of ten-plus States from most of the reactor points of origin. What routes will this radioactive

waste take? Are our railroads prepared to accept these high capacity packages? Are our bridges and trestles up to the challenge? Who will pay for the potential infrastructure upgrades. This Congress?

A rail incident involving no release of radioactive materials, but tying up a main line for hours or days for inspections and recovery could be economically disastrous for the carrier.

The need for physical security from package interdiction and terrorism is a critical issue, and I brought with me, Mr. Chairman, a headline from the Las Vegas Sun, the same headline that was emblazoned in papers across this country, about the terrible rail accident that happened yesterday in Arizona. They now think that that was a result of sabotage; and the question is, what if that had been carrying nuclear waste, as I have pointed out. I think that incident alone should be enough to give this Congress great pause about passing this legislation.

If the shipments are sent by trucks on our highways, rather than by rail, what hazards will we face there? What kind of shape are our interstate roadways in? Should nuclear waste travel through our major metropolitan areas? If not, what danger does it pose for our rural areas when it is sent on a two-lane highway over difficult terrain?

The State of Utah, Mr. Chairman, last week held a hearing on the transportation of this waste through their State to get to Nevada. Suzanne Winters, Utah's science advisor, said it is "irresponsible" to consider a national disposal site in Nevada when 90 percent of the spent nuclear fuel is located east of the Mississippi River. Utah is just one of many States who will begin challenging this concept once they realize the impact of transporting nuclear waste through their States. The transportation issues are so overwhelming it is foolhardy to site an interim storage facility until many of these questions are answered.

On behalf of Governor Miller of Nevada and a majority of the Nevada Legislature, I strongly recommend that you leave the waste where it is—at the reactor sites. Let's be cautious about endangering the roadways and the lives of the citizens of the vast majority of our States.

There is a much more logical solution put forward by Nevada's own elected officials, and that is H.R. 1924, the Interim Waste Act, which Congress has apparently failed to recognize; and it failed to recognize the drastic consequences of this bill. I strongly urge the members of this committee to take a closer look at exactly what this bill will do.

Thank you very much, Mr. Chairman and members of the committee.

Mr. HANSEN. Thank you, Senator.

[The prepared statement of Mr. James can be found at the end of the hearing.]

Mr. HANSEN. I appreciate the testimony of all three of you.

Keep in mind, this is a pretty large bill, covering a lot of committees. This committee, we talk about land exchange in this area. That is our part of it. I appreciate your testimony. It was excellent testimony from all three of you.

Mr. Richardson, do you have questions of this panel?

Mr. RICHARDSON. I have just one.

Let me say to Senator Lowden and Senator James and all three, I agree with you. I think that Nevada has, like New Mexico when we were the recipients of the low-level military waste, the citizens and the legislature and governor, your power has been taken away. I agree that you should have a say through a referendum, or some way, or through the bill by Mr. Ensign and Mrs. Vucanovich; I really do.

Senator Lowden, I didn't agree with the first part of your statement on the contract issues, but I do agree with the basic position of the State of Nevada. I think that you deserve a say.

Let me tell you from experience in New Mexico. At one point the DOE, some 15 years ago, promised us veto power. They never honored the commitment. So I think unless you put some of these commitments by the Federal Government in writing or you put them in legislation, you are not going to be protected; and I think—especially, Senator James, some of the concerns you raised—it sounds like the debate that we had in New Mexico.

You have a supporter here on this side of the aisle, whether you welcome it or not, and I do appreciate all of your testimony. I think it was very, very good.

Mr. HANSEN. Thank you very much. I know the panel is very astute and has many problems in the State of Nevada, as we do here. But you have got to consider—and I am not trying to play down anything that you said. But put yourself in the shoes of many of us who sit here. What do we do with this stuff? It becomes a whale of a problem.

The other hat that I wear is in Armed Services, where I am one of the senior members and I handle most of the chemical and biological stuff on the committee. You want a bag of worms? Take that one on. This is stuff that will kill you in a minute. What do you do?

In nine places in America we have stuff that, if it gets out—and it has been there almost since the First World War, and some of it is by your State as well as mine; 42.3 percent of it is on the border of Nevada and Utah, and we have adequate and fine people working on it daily.

We don't like to make much out of this because a lot of politicians use it to scare people to death. But some way we have to get rid of this obsolete chemical and biological warfare. We have got it all out of Germany, Spain and England. We took it around the Cape of Africa to a place called Johnston Atoll 774 miles southwest of the Hawaiian Islands, and there it is being destroyed by a process called baseline technology.

We create a lot of problems in this world. So we are faced with trying to work with States, with counties and cities on how do we do this in a safe and adequate manner. I have a lot of the same feelings.

I agree with my colleague, how do we do it? It is the idea of "not in my backyard" and I feel the same way. I have more chemicals than any other place in the world except Chernobyl, and we have seen what they did with theirs. They are behind us on technology.

I don't throw that out to muddy the water, but put yourself in our shoes. It is an agonizing problem, and I appreciate your input

and comments, and I hope we can work together to come up with something that is workable for all of us.

Does anybody want to comment on that?

Mr. JAMES. To be brief, I want to say that I appreciate very much your position here and the difficult national problem we face with this, but I think the message we want to send from Nevada is that Nevada should not have to have an unfair share of that burden. With this legislation and other proposals to site everything in Nevada, Nevada is shouldering a far greater burden than it should have to share in terms of its size and the amount of waste we have generated in our State, which is none of this kind of waste. We would like to see the rest of the States participate. Whether they develop site-based storage or other alternatives, those ought to be investigated rather than to ramrod this through.

I wouldn't suggest that this committee is doing that, but I think those who support this legislation are trying to push this through as an interim storage site which is really a permanent storage site, instead of exploring other alternatives.

Mr. HANSEN. Not only in Nevada, but Washington had to take a bigger share, the Endangered Species Act thing. We lost 35,000 people. Utah, Nevada, New Mexico, Arizona and Idaho have to take a bigger share of military, and the list goes on and on.

I worry about our folks back east. They think that we are a group that never runs out of taking care of all of their problems.

I hope you join us in our bill that puts 10 percent of all our junk in eastern States. I'm kidding, of course.

Mr. Richardson, anything else?

Mr. RICHARDSON. No.

Mr. HANSEN. Thank you very much. We appreciate your excellent testimony.

We will turn to our third panel.

We will take them in this order. Cameron McRea, Chairman, Nye County Board of Commissioners, Nevada; Ed Wright, Chairman, Lincoln County Board of Commissioners, Nevada; Eve Culverwell, Commissioner, Lincoln County, Nevada; Kevin Phillips, Mayor, city of Caliente, Nevada; and Lorraine Hunt, Commissioner, Clark County Board of Commissioners, Nevada.

We appreciate your taking the time to be with us. I know it is a long way to get here. How much time do you need?

Mr. McREA. Five minutes should take care of my statement.

Mr. WRIGHT. Eight minutes, Mr. Chairman.

Mr. HANSEN. You are going to give us your written statement, and we will have an opportunity to look at that.

You know the rules. See the green light go on. If you go over a few minutes that is OK. We have all got other meetings, like you do, but we want to hear your testimony and make it part of the record.

Mr. McRea, Chairman of the Nye County Board of Commissioners.

#### **STATEMENT OF HON. CAMERON McRAE, CHAIRMAN, NYE COUNTY BOARD OF COMMISSIONERS, NEVADA**

Mr. McREA. Thank you, Mr. Chairman. Good morning. My name is Cameron McRae, and I am the Chairman of the Nye County

Board of Commissioners. I want to thank the committee for the opportunity to present our views on this critical issue for the Nation and for Nye County.

As you are all aware, Nye County, by legislation, is the host jurisdiction to the Yucca Mountain project, and if H.R. 1020 is enacted, we will also be the designated hosts for the location of the Nation's only interim spent fuel storage installation. More than any other jurisdiction in this country, Nye County might be asked to bear the burden for managing the Nation's spent fuel and high-level nuclear waste problem.

In June of 1995, in my testimony to the House Commerce Subcommittee on Energy and Power, I addressed a range of issues related to transportation, storage, and disposal of high-level waste, particularly as it might impact Nye County. We are well aware that nobody wants this facility, and we are also well aware that we are going to be the ones that have the least to say about it. With that in mind, we have carefully evaluated proposals before Congress to overhaul the Nation's nuclear waste management policy and have articulated a set of principles that we believe that any new legislation should meet. I hope you will give these principles full consideration.

Though I am prepared to discuss any point of interest to this committee, I will focus my testimony this morning specifically on the transportation of nuclear waste to Nye County, the construction of the rail spur to the Nevada test sites and the conveyance of public lands as equity offsets for hosting these facilities. I also have four documents with me that I request be entered in the committee's official report, as they are relevant to your considerations.

Mr. HANSEN. Without objection, any member who wants to put anything in as evidentiary material, we will take it.

[All material received may be found at the end of the hearing.]

Mr. McCREA. Thank you.

Nye County is the second largest county in the lower 48 States and is about the size of Vermont and New Hampshire combined. We are also one of the fastest growing. The Federal Government has an overwhelming presence in Nye County; 93 percent of the county is managed by the Federal Government, mostly the Bureau of Land Management. The Nevada Test Site, Nellis Air Force Range, and Tonopah Test Range occupy 2.1 million acres, or about 19 percent of that total land within our county.

Unfortunately, Nye County has realized little benefit from the presence of these Federal installations. The Federal Government has provided subsidies that have encouraged workers and support operations associated with the test site and Nellis to be located outside of Nye County; and at present, only one of every 10 employees who work at the test site lives in Nye County, and less than one-tenth of 1 percent of test site procurements flow through Nye County business.

A key long-term goal, therefore, is to realign our relationship with the Federal Government so that these installations that we host can make a greater contribution to our residents and economy. The challenge we face, however, is that the important decisions about the test site, the Yucca Mountain project and potential in-



terim storage, will be made by others who do not live in Nye County and have little knowledge of our history or goals.

Even within our own State, Nye County's voice, coming as it does from a rural community, is often eclipsed by its two urban counterparts. Our intent with regard to nuclear waste issues, then, must be to protect ourselves by carrying out vigorous technical oversight, addressing project impacts and working to obtain reasonable equity offsets.

With regard to transportation, Nye County has completed a detailed analysis of the transportation options under consideration by DOE. The results of this analysis are compiled in one of the reports I offered earlier for the record.

Two issues of discussion in this first part are especially noteworthy. First, Nye County believes that shipments by rail are preferable to shipments by highway, and we hope that truck shipments on the highway leading to the Nevada test site will be minimized.

Second, the DOE is already shipping substantial amounts of low-level radioactive waste to the test site, and therefore we would prefer that these shipments also be made by rail. The Nye County Board of Commissioners has not taken a position either in support or in opposition to any particular rail spur route to the Nevada test site. Any route could have substantial impacts on Nye County residents and any route offers advantages. Instead, we have defined a set of conditions and criteria that any potential rail route should meet.

We think that these conditions are reasonable and appropriate with regard to rail and maintenance, and we carefully analyzed DOE's conceptual design report for the Caliente route and have concluded that numerous facilities and operations needed to support the rail spur could and should be located in Nye County.

As I previously noted, 93 percent of Nye County is currently public land. In April 1995 statements to the House, as reported in the Congressional Record, Chairman Young made a number of points that resonated with Nye County. First of all, he recognizes that no unilateral action should be taken by the Federal Government without special consideration being afforded by the State and local government. Chairman Young further felt that the controversial matter of designating a Nevada test site for interim storage provided an opportunity to implement this philosophy, and he specifically suggested a public land conveyance is one of the types of special consideration.

Nye County welcomes Chairman Young's initiative and believes that his concept is consistent with our position that equity offsets should accompany the design of any site for storing and disposing of nuclear waste.

I will close by offering a broader perspective on how Nye County views nuclear waste. For most of the last 50 years the Federal Government has looked at Nye County as an empty quarter that could be sacrificed in the interests of larger national goals. We have been subjected to hundreds of nuclear detonations, countless practice bombing runs, and the disposal of DOE defense program's low-level and high-level nuclear waste. Many people think Nye County may therefore be better suited for nuclear waste disposal than anyplace

else. We cannot, however, allow you to forget that the wide open spaces of Nye County are also home to thousands of people.

Further, our community maintains the same ambitions as all others in the country, to secure a safe and high quality of life for our residents and a bright future for our children. I assure you, we will be as constructive as possible in working to protect the health, safety and quality of life of the growing number of people who call Nye County their home. Our constructive approach, however, carries with it the expectation that Nye County will be honorably treated by a Nation that, by all reckoning, will be asking us again to take on a burden that no one else will accept.

Thank you very much, Mr. Chairman.

Mr. HANSEN. How many people do call Nye County their home?

Mr. McREA. About 27,000-28,000 now.

Mr. HANSEN. Thank you.

[The prepared statement of Mr. McRae can be found at the end of the hearing.]

Mr. HANSEN. Next we have the Honorable Ed Wright, Chairman of the Lincoln County Board of Commissioners.

#### **STATEMENT OF EDWARD E. WRIGHT, CHAIRMAN, LINCOLN COUNTY BOARD OF COMMISSIONERS**

Mr. WRIGHT. Thank you, Mr. Chairman, members of the committee. My name is Ed Wright, and I am Chairman of the Board of Lincoln County Commissioners. At the outset, I would like to thank you for requesting input from Lincoln County regarding H.R. 1020.

As my testimony will reveal, the county has spent the past 10 years closely evaluating the DOE's radioactive waste management proposals for Nevada. Our many years of experience with the issue have led to the formulation of the views and recommendations which I will express today.

I am convinced that adoption of amendments to H.R. 1020 proposed and/or supported by Lincoln County will help to ensure that the management of spent nuclear fuel in Nevada is done in a manner which minimizes risk and maximizes benefits.

My remarks today are premised upon the assumption that the United States will transport into and store spent fuel within Nevada beginning soon after January 1st, 1998. The Board of Lincoln County Commissioners believes this assumption to be valid and have, in accordance with section 116(c) of the Nuclear Waste Policy Act, as amended, initiated contingency planning activities. These activities include adoption of JR2-95, which contains 16 recommendations to the Secretary of Energy regarding methods to minimize risk and maximize benefits.

In response to the Commission's adoption of JR2-95, the Nevada Attorney General filed a lawsuit to remove Commissioner Culverwell and myself from office. Following seven months of perseverance on our parts, the Attorney General recently agreed to drop her lawsuit. I sit before you today emancipated.

I have reaffirmed the right of all representatives of local government in Nevada to petition the Congress for changes which will protect the public health, safety and welfare of their constituents.

Once passed by the Congress and signed by the President, H.R. 1020 will result in most, if not all, shipments of nuclear fuel and

other high-level radioactive nuclear waste destined for the Nevada test site passing through Lincoln County. Initially, shipments will be brought through Lincoln County to the city of Caliente by rail, then off-loaded onto heavy-haul trucks for transport to the NTS. Eventually, the bill requires DOE to construct and operate a rail spur across Lincoln County providing access to NTS. Each of these activities will be characterized by risks and benefits. The amendments to H.R. 1020, which I am supporting today, will help to ensure that said risks are minimized and benefits maximized locally.

In response to a request from Chairman Young, Lincoln County staff have offered suggested land-related amendments to H.R. 1020. The amendments to the bill for which we seek committee support include the following:

**Initial transfer of land:** Lincoln County supports the immediate transfer of parcels of public land to the county as shown on the attached table. These lands will be used to support community expansion and development. Repository system activities in the county are expected to simulate demands for residential, commercial, industrial and public facility development. Lands identified for immediate transfer to the county are generally located adjacent to existing communities. It is important to note that the approximately 12,500 acres proposed for transfer represents less than three-tenths of 1 percent of the total land area of Lincoln County. As is illustrated by the attached figure, 97 percent of the land area in Lincoln County is administered by the Federal Government. The current lack of landownership diversity in the county contributes significantly to the area's narrow economic base.

**Subsequent transfer of land:** With 87 percent of Nevada's land under Federal control, the economic diversification limitations facing Lincoln County are endemic of problems recurring throughout Nevada. Lincoln County supports establishment of a process whereby, Nevada counties and the State of Nevada could over a period of time assume title to additional land areas now administered by the Federal Government. Such a process would recognize that management of the Nation's spent fuel and other high-level radioactive wastes will impact upon all of Nevada.

With regard to the total amount of public land which might be made available to counties and the State under this program, I would suggest that an area equal to the Nevada test site be considered. NTS lands have been withdrawn from multiple use and because of environmental and security constraints may not in the future be available for other non-Federal uses.

**Release of certain lands from wilderness study area status:** As shown in the attached table the Bureau of Land Management has identified 16 areas totaling in excess of 1.1 million acres as wilderness study acres within or adjacent to Lincoln County. For nearly 10 years, the lands within these areas have been closed to entry for mining and other land uses. The Bureau of Land Management has determined that over half of the WSA acreage in Lincoln County should not be designated as wilderness. Yet these vast land areas remain in the restrictive WSA status. Of particular relevance to H.R. 1020, two WSA's—NV-040-242 and NV-040-246—are located immediately adjacent to the rail spur alignment also described within the bill. In addition, WSA's NV-050-1R-16 A,B,C

and NV-050-201 are immediately adjacent to an existing utility corridor in which further development continues to be unnecessarily restricted. Removal of certain WSA's from study status will enable Lincoln County to proceed with important land uses such as establishment of fiberoptic links. Other important land uses such as mining and range improvements will also be enabled to proceed.

To remedy WSA issues amendments of concern to Lincoln County, the following amendment to H.R. 1020 is suggested. Section 201, Railroad should be amended by adding thereto a new subsection 5 as follows: All lands within BLM wilderness study areas NV-040-158, -177, -197, -242, -246, 050-177, -201, and 16 A,B,C are deemed to have adequate studies and should be released in further review under section 603 of the Federal Land Policy Management Act.

Adoption of this amendment by the committee would remove an estimated 489,582 acres from wilderness study area status. This amount represents 80,147 acres more than what BLM has recommended be released from wilderness study status. Within and adjacent to Lincoln County, an estimated 618,000 acres will remain in wilderness study status.

Shared use of rail spur: The rail spur across Lincoln County contemplated by H.R. 1020 can support important economic development initiatives. The potential for renewed mining and production of fossil fuels in the vicinity of the rail corridor will only occur, however, if such industries are afforded the opportunity to utilize the spur to facilitate shared use of the rail line built across public lands. The following amendment is proposed:

Section 201, Shared Use. That portion of the rail spur developed by the Secretary pursuant to this act located outside of the Nellis Air Force Range and the Nevada Test Site shall be made available for shared use by other governmental and private entities.

Mitigation of Lost Grazing Capacity: Lincoln County is concerned that construction and operation of the rail spur described in H.R. 1020 will result in significant impacts to the range livestock industry. The county has little confidence that DOE compliance with NEPA will necessarily result in effective mitigation of impacts to forage availability and livestock distribution. To ensure that potential impacts to grazing are mitigated, the county requests that the committee adopt the following amendment to H.R. 1020.

Subsection d of Section 201, Railroad, should be amended by adding thereto a new subpart (4) as follows:

Notwithstanding the findings contained within any environmental document prepared pursuant to this Act, the Secretary shall provide for rangeland improvements as necessary to mitigate losses in forage for livestock, restricted access to stockwater, and impediments to livestock distribution resulting from construction and operation of the rail spur authorized pursuant to this Act. Compliance by the Secretary with this subpart shall result in a significant increase in forage available for livestock on grazing allotments impacted by rail spur construction and operation.

Let me close by indicating that the recommendations I have just offered have not been formed in the womb of ignorance. To the contrary, these recommendations have evolved during 10 years of careful consideration of risk and benefits of radioactive waste manage-

ment. Lincoln County and the city of Caliente firmly believe the most effective way to minimize the risk and maximize the benefits of radioactive waste transportation through Nevada is to become effectively involved in shaping the conditions under which such transportation will occur. By taking appropriate steps to empower local jurisdictions to effectively participate in risk management and benefit enhancement activities, I believe the Congress can establish a radioactive waste management program which is good for the people of this Nation, the State of Nevada and affected units of local government.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Wright can be found at the end of the hearing.]

Mr. HANSEN. Thank you Commissioner. Your statement was excellent and very interesting. Some very creative thinking went in here.

On page 3, when you talk about any grounds that are withdrawn because of high-level radioactive waste, with regard to the total amount of public land which might be made available to counties, are you assuming that would be BLM ground that would then be made available to counties; or this would be deeded to counties as county lands?

Mr. WRIGHT. Yes.

Mr. HANSEN. The second premise?

Mr. WRIGHT. Yes.

Mr. HANSEN. On WSA's, you are talking about the idea of releasing wilderness study areas prior to being designated either way by Congress so that they could be used for multiple use. Is that a correct assumption from that?

Mr. WRIGHT. That is correct. Some of these areas, local ranchers have been forced out of, recreations have been forced out of and they are still in a limbo state.

Mr. HANSEN. I agree, and I think WSA should have a sunset on them. Perpetuity irritates me.

We have bills that should have a sunset on them so either the environmental crowd or other crowd gets a chance to move on these things, but just leaving them in perpetuity in WSA, I think, is a mistake.

Very interesting testimony.

Our next individual is Eve Culverwell, Commissioner of Lincoln County, Nevada.

#### **STATEMENT OF YVONNE CULVERWELL, LINCOLN COUNTY BOARD OF COMMISSIONERS**

Ms. CULVERWELL. Mr. Chairman, my name is Yvonne Culverwell, and I am Vice Chairman of the Board of Lincoln County Commissioners. I appreciate your invitation to appear before you today to address issues with H.R. 1020. I might add, I am a little bit nervous. Because of recent turmoil in Lincoln County, I have developed the habit of sitting with my back to the wall so I could observe incoming.

As you consider various proposals to amend H.R. 1020, I am particularly concerned that this committee understand what we in Lincoln County have been through the past several months in

order to preserve our right as local governments to provide input to the Congress on matters affecting the public health safety and welfare of our residence.

During December of 1994, it became apparent to several other Lincoln County and city of Caliente elected officials and I that the Congress was prepared to take steps that would result in spent nuclear fuel and other high-level radioactive waste to begin arriving in Nevada for storage and disposal as soon as 1998. Unlike other Nevada politicians, we were unwilling to pretend that the will of the Nation was not moving against our State. Rather, Commissioner Wright, the entire Caliente city council, and I chose to adopt and forward to the Secretary of Energy a set of recommendations designed to minimize risks and maximize benefits associated with anticipated congressional actions. Joint Resolution 2-95, as adopted by the county and city included 16 suggested actions dealing with facility siting, compensation, transportation mode, emergency management, procurement outreach, and labor participation.

Immediately following adoption of JR 2-95, the Nevada attorney general filed a lawsuit seeking to prevent the county and city from communicating with the Congress. In addition, the attorney general filed a legal complaint seeking to remove Commissioner Wright, the entire Caliente city council, and myself from office. The complaint claimed that we had conspired with the Federal Government to violate Nevada State law which prohibits the storage of high-level radioactive waste in the State. In response to the lawsuits, the Nevada legislature passed resolutions condemning the actions by the attorney general.

Undaunted, the attorney general ultimately amended her complaint claiming that the county and city have mismanaged and illegally utilized nuclear waste fund moneys provided for oversight activities. Ironically, the attorney general claimed that use of said moneys for travel to Washington to testify before Congress on nuclear waste matters was illegal. Obviously, the county does not agree, and we are here before you today. Were it not for the provision by Congress of nuclear waste fund moneys to Lincoln County, we would not be able to effectively interact with this committee or the Department of Energy.

While all these legal maneuvers were being undertaken, a recall petition was circulated seeking to recall me from office because of my support for JR 2-95. A recall election was held, in which I was challenged by a candidate selected by antinuclear activists. The election was billed by the Nevada attorney general's office as a nuclear referendum. I soundly defeated my challenger, winning the city of Caliente by over 70 percent. Faced with stronger legal defense and the knowledge that many of the accusations made about the county and city fit the State of Nevada as well, the attorney general agreed to drop her lawsuits just two weeks ago. Local governments throughout Nevada scored a victory and can be assured now of their right to take necessary steps to protect the public health, safety and welfare of their residents.

All of this brings me to H.R. 1020 and proposals to amend the legislation. You have heard that Lincoln County supports the initial and subsequent transfer of public land to counties and the State for community/economic development purposes.

While I understand the Department of Interior's concern at losing control over some of the public lands in Nevada, may I remind you that Lincoln County is 97 percent public land, and we are only asking that three-tenths of 1 percent of that land be transferred back to the county and city. Without the availability of additional land, Lincoln County will be unable to capitalize on potential waste management-related growth and economic activity. Certain of these parcels will also support critical community service facility needs.

I understand that consideration may be being given to relocating the intermodal transfer facility currently proposed for Caliente to the Crestline area of Lincoln County. Lincoln County would not support location of the intermodal transfer facility at Crestline. Such a proposal would require heavy-haul trucks to operate through both the community of Panaca and the city of Caliente. The county and city have had the University of Nevada, Las Vegas, conduct transportation risk assessments in our area. These studies have demonstrated that rail transport is preferable to highway. Consequently, we would prefer to see shipments move by rail through the county to Caliente. Following transfer from rail to truck, the shipments would travel to the Nevada test site without having to cross any other communities in Lincoln County. The Caliente location is also preferable due to the immediate availability of emergency first responders.

Let me close by reiterating that I and my fellow elected officials in Lincoln County and the city of Caliente have been drained emotionally and financially in an attempt to protect our right to be here today. I sincerely hope that this committee and Congress as a whole takes seriously the various recommendations we have and will continue to offer. Your consideration of adopting an amended H.R. 1020 which incorporates each of the amendments Mayor Phillips, Commissioner Wright and I have supported here today is greatly appreciated.

Mr. Chairman, may I tell you how much I appreciate your work on the public lands issue as they are so vital to the western States. Thank you.

[The prepared statement of Ms. Culverwell can be found at the end of the hearing.]

Mr. HANSEN. Thank you. I didn't realize you had been through so much. Your statement is fascinating. A regular thing on local government. Who was the attorney general who filed this against you?

Ms. CULVERWELL. I believe her name is Frankie Sudell Pavla.

Mr. HANSEN. Congratulations. You did very well. That must have been an emotionally draining experience.

I know when I was in the State legislature, the State of Utah tried to do that a number of times. We thought we would be putting the local people and everybody through hell to do it. You get your nose out of joint—I will stay away from that one.

We do have a recall anyway; it is called the voting booth.

Congratulations. You made it through. We appreciate your being here. You are always welcome in this committee.

Ms. CULVERWELL. Thank you, sir.

Mr. HANSEN. Hon. Kevin Phillips, Mayor of the city of Caliente, Nevada.

**STATEMENT OF KEVIN PHILLIPS, MAYOR, CALIENTE, NEVADA**

Mr. PHILLIPS. Mr. Chairman, we very much appreciate your sensitivity to the issues of the West.

I happened to be present when a hearing was had over your land bill, and we are so grateful to you for being a good neighbor in Utah and understanding the tremendous obstacles that we, as Westerners, face. Some of those obstacles can be addressed in relationship to this issue of nuclear waste and its transportation and storage in Nevada.

We say that the best government is the government closest to the people. This panel probably represents, therefore, the best government that you will hear from today. Therefore, although we understand the protocol required in such an occurrence we should have spoken first, sir.

Mr. HANSEN. I am sorry. Next time you come, we will put you on first.

Mr. PHILLIPS. As adopted by the House Commerce Committee, H.R. 1020 will require that the city of Caliente serve as host to intermodal transfer and other spent nuclear fuel transport operations. The city has worked closely with Commerce Committee members and staff to ensure that H.R. 1020-related risks are minimized and benefits maximized. Inclusion by the Commerce Committee of many city-suggested amendments to H.R. 1020 will result in a radioactive waste management system which is sensitive to local issues. In like manner, I believe that adoption by the Resources Committee of city-suggested and/or -supported amendments to H.R. 1020 will further serve to mitigate community local concerns.

At the request of Congressman Young, I and my staff have been working closely with committee staff to define a set of proposed amendments to H.R. 1020 which address public land matters. One such amendment would immediately transfer title to approximately 3,680 acres of land now administered by the Bureau of Land Management to the city of Caliente. A listing of the parcels and intended use is attached. This provision is critical if Caliente is to be able to grow.

The city is essentially surrounded by Federal land, making expansion a difficult, costly and drawn-out process. As DOE waste management activities accelerate in and around the city, it is essential that community expansion be possible.

The proposed parcels of land to be transferred to the city would facilitate residential, commercial and industrial development. The proposal will also enable development of much-needed community leisure facilities through the development of transferred lands identified as potential recreation sites. In addition, the city will acquire a site to establish its new community landfill complex.

DOE activities in and around Caliente will result in increased demands for disposal of solid wastes. This increased demand, coupled with ever-expanding Federal landfill requirements, make acquisition and development of a new solid waste disposal facility imperative. The Interior Department to community land transfer aspects of H.R. 1020 will help Caliente to fulfill its community service obligations.



In addition, the proposed immediate land transfer amendment would enable the city of Caliente to pursue with Lincoln County the joint development of an industrial complex at Crestline. The proposed 960-acre industrial site is adjacent to the switch point from the Union Pacific main line to the proposed rail spur to Yucca Mountain. In possible conjunction with the Lincoln County Regional Development Authority, the city and county intend to pursue location of rail spur operation and maintenance activities in the proposed industrial park. Other interim and permanent storage and transportation support industries will be targeted for location at the Crestline industrial site.

I believe that the proposed amendment to accomplish transfer of select parcels of public land to the city is critical to enabling effective community development responses to waste management activities. The city of Caliente fully supports the initial transfer facet of proposed amendments to H.R. 1020.

The city of Caliente also supports the proposed amendment to H.R. 1020 which would facilitate subsequent transfers of land to Nevada counties and to the State of Nevada. Given that 97 percent of the land in Lincoln County is administered by the Federal Government the opportunity to expand non-Federal landownership is imperative to local economic diversification. Further, the city believes that the provision for subsequent land transfer recognizes the potential for other counties in Nevada to be affected by radioactive waste management activities in the State.

In addition to support for the amendments I have outlined in this statement, it is important for the committee to know the city of Caliente stands firm in its support of amendments offered by Lincoln County in testimony today. Taken as a whole, the city and county proposals represent important components of an effective national radioactive waste management program.

I close by encouraging the committee to recall what I and my fellow local officials have been through these past few months. As a result of our belief that H.R. 1020 would pass and that we needed to respond to the bill, we adopted Joint Resolution 295 which provided specific recommendations to the Secretary of Energy. In response to our passage of the resolution, as Commissioner Culverwell indicated, the Nevada attorney general filed a lawsuit to remove the entire city council and two Lincoln County commissioners from office. After having been censured by the Nevada legislature and facing a stiff legal defense by the county and the city, the attorney general recently dropped her lawsuits.

My fellow elected representatives of the city and Lincoln County have paid a heavy financial and emotional price to defend our right to work with Secretary of Energy and the Congress to ensure that as H.R. 1020 moves forward the public health, safety and welfare of our residents is protected and enhanced. I trust you will take seriously our recommendations to further amend H.R. 1020.

Thank you.

Mr. HANSEN. You can count on that. We will take that very seriously, and we will look at the amendment on that. We will look at it in great detail and hope to be in contact with you folks regarding all of these areas.

Ninety-seven percent of the land in Lincoln County is administered by the Federal Government?

Mr. PHILLIPS. This is a map of Lincoln County.

Mr. HANSEN. I would assume that Nevada has the largest percent of Federal ground in America; is that a correct statement?

Mr. WRIGHT. That is correct.

Mr. HANSEN. What percent would the entire State be?

Ms. CULVERVILLE. 87 percent.

Mr. HANSEN. That has got to make you folks the winner or the loser, depending on how you look at it.

Mr. PHILLIPS. Sir, white on this map represents private or State ownership; the black is federally administered public lands.

Ms. CULVERVILLE. We probably should add also, this was done by Aerojet in 1980, and so probably there is even less private land than is depicted on this map.

Mr. HANSEN. I thought we were bad up in Utah. I assume maybe some of you are in support of the bill that would transfer BLM to the States. I won't get into that.

Our last speaker—and we will give you the last word, Commissioner—is Commissioner Lorraine Hunt, Clark County Board of Commissioners, from Nevada.

We will turn the time to you.

#### **STATEMENT OF HON. LORRAINE HUNT, CLARK COUNTY BOARD OF COMMISSIONERS**

Ms. HUNT. Good morning, Chairman Hansen.

I am Lorraine Hunt, a lifetime Nevadan and a county commissioner for Clark County. I want to thank you for the opportunity to be here today to testify against H.R. 1020, the Nuclear Waste Policy Act of 1995.

Mr. Chairman, I understand from Congressman Ensign, from Representative Vucanovich, and from our own Washington counsel that you are a good friend and a neighbor to Nevada. Indeed, Utah and Nevada have much in common. Southern Nevada was settled by the same families who settled southern Utah. In fact, the Leavitt family, from which Utah's governor descends, is also a very prominent family in the Las Vegas area. I am glad you are a friend of Nevada because you know what they say: "Friends don't let friends store radioactive nuclear waste!"

With your permission, Mr. Chairman, I would like to insert my entire written statement into the hearing record and proceed to summarize my testimony.

Mr. HANSEN. Without objection.

Ms. HUNT. I wish to make three fundamental points concerning H.R. 1020 as reported from the Commerce Committee.

H.R. 1020 is a serious threat to Nevada's tourism industry. Tourism and the hospitality industry are the lifeblood of Southern Nevada's booming economy. Clark County covers over 8,000 square miles of Nevada and is home to over one million people. Almost 70 percent of Clark County's 500,000-strong work force are employed in industries that provide services and entertainment to the 28 million tourists that visit southern Nevada annually. Clark County is the dominant force in the Nevada economy, generating more than half of the State's total revenues.

Two other popular tourist destinations, Miami and Orlando, recently experienced a significant drop in tourism due to concerns over public safety. Any suggested threat to the health and safety of our tourists can have an adverse impact on our tourism market.

Although the Florida tourism officials kept stressing that the carjackings and the shootings were statistically very low in relation to the millions of tourists who visited Florida's resorts, those assurances meant nothing to the thousands of people who rebooked their vacations to go to other destinations. Any concern about health or safety resulting from nuclear waste shipments in and around Las Vegas, whether perceived or real, could prove devastating to our local and our Statewide economies.

As a commissioner from Clark County, I and my colleagues have a responsibility to ensure the public health and safety of county residents and also the millions of tourists who have chosen to spend their vacations in southern Nevada. I submit, Mr. Chairman, that the Members of Congress also share in this responsibility to ensure the health and safety of the public. H.R. 1020 is a measure designed to shortcut safety precautions and accelerate incomplete conclusions about the safety of storing nuclear waste at Yucca Mountain.

A second concern has to do with the shipments of nuclear waste through the Las Vegas Valley. H.R. 1020, as introduced in the Commerce Committee, directs that Federal land be withdrawn for the construction of a rail spur to transport this radioactive waste across the Quail Springs and Nellis Wilderness Study Areas and across Clark County and the cities of Las Vegas and North Las Vegas.

Of the 13 alternate rail lines that were studied in a 1990 DOE report, it is easy to deduce that the proposed rail spur in H.R. 1020 is the worst alternative from a public health and safety perspective. It is important to note that DOE rejected this option in 1990 because of impending urbanization.

The proposed alignment of the rail spur, when positioned over the master plan prepared by the city of North Las Vegas, a growing community, would have a significant adverse impact on a major land acquisition and development area contemplated in North Las Vegas's future plans. This alignment would also jeopardize the route which has been selected for the construction of the freeway road which is being constructed as a beltway around the Las Vegas Valley.

In addition, a nuclear waste railroad through Las Vegas will no doubt restrain interest in BLM land acquisition and land exchanges for master planned communities and housing projects in the valley. It is critical that the NEPA process should not be accelerated to the detriment of the public. Transportation routes for nuclear waste shipments should be considered a major Federal action and not merely a preliminary action.

Mr. Chairman, please don't let Clark County be railroaded by H.R. 1020. There are better temporary storage alternatives.

Finally, Mr. Chairman, H.R. 1020 is not consistent with national policy nor is it in the long-term interest of the Nation. There was a reason why Congress wrote the Nuclear Waste Policy Act of 1982 as it did.

Clark County is an affected unit of local government as defined by the Nuclear Waste Policy Act. Our concerns as an urban area are different from those of the affected rural communities from whom you have heard today. In Clark County we believe that nuclear waste will be an economic detriment, not a benefit.

Clark County faces the same enormous adverse impacts from the construction of a permanent nuclear waste repository at Yucca Mountain as we do from the establishment of a temporary one. These impacts must be thoroughly analyzed and studied before nuclear waste can or should be shipped to Nevada. Nuclear waste is successfully being stored at a number of reactor sites today. The potential danger and Federal liability involved in attempting to rush the development of a safe transport system outweigh any advantages of centralized storage.

I urge the committee to carefully consider the position of Senate Energy Committee Chairman Murkowski who favors following the original intent of the Nuclear Waste Policy Act by establishing two MRS sites. He has suggested as examples placing one at Savannah River in South Carolina for the eastern half of the Nation and the other, for the West, to be located in Washington State at the Hanford site.

Both of these locations possess an adequate existing infrastructure and transportation system which is capable of temporary storage of nuclear waste. These sites also have personnel who are already trained to handle high-level nuclear waste. In addition, Senator Murkowski favors exploring other long-term disposal solutions such as reprocessing waste, which is being pursued in France.

In conclusion, I would like to say that I recognize that Nevada is a small State without a lot of political power. I wonder if we would even be here today if Nevada's 28 million tourists could vote alongside our State's permanent residents. Just because we are small, however, doesn't mean we don't count.

It is important that this program not be schedule driven. Any attempt to begin to transport waste to Nevada by 1998 is potentially dangerous to the general public. Much more work needs to be done to resolve transportation issues. It is wrong to let an arbitrary 1998 date set for a temporary storage be used to ramrod Nevada.

It is sound policy to retain the existing statutory prohibition against locating an MRS at the same location where the permanent repository is being studied. To do otherwise will taint the validity of the remaining scientific analysis which must be completed to determine if Yucca Mountain is a suitable permanent repository.

If Yucca Mountain proves to be unsuitable, the waste would only have to be moved again a second time, exposing millions to the dangers of transportation accidents. Other alternatives are available and must be explored.

Mr. Chairman, I urge you not to short circuit the provisions of the Nuclear Waste Policy Act; I urge you not to jeopardize the health, safety, and economic well-being of over one million southern Nevadans and our 28 million visitors. Please, do not be rushed into a bad decision which is ill conceived, will affect our lives adversely, and is not necessary.

Thank you for this opportunity to speak before you today.

[The prepared statement of Ms. Hunt can be found at the end of the hearing.]

Mr. HANSEN. Thank you, Commissioner Hunt. I surely appreciate your testimony. This is one of those things we have had around here for a long time.

I remember in 1982 I put an amendment in, in those days, that said the local legislature and the governor had some right of veto on a few things. I can't remember how that all worked out. I remember working with the then chairman from Arizona, Mr. Udall.

There may be some other solutions; I don't know. The French have been over to see us a number of times, talked about how they reprocess spent rods. They think that we are a little archaic, and maybe we are, but I hope folks realize that we have a different thing than the Japanese and the French and the Swiss and others who do these things, because over here they don't have the roof fall in on them every time someone even mentions the word "nuclear." That is one of those things that just draws great pain to a lot of folks.

In fact, in Long Island, the State of New York spent over \$5 billion and never turned a turbine. I went out there to defend the Reagan Administration, which was really a mistake, as I look back at it, but in those days I didn't know better. Now I would send John Ensign or one of the new guys up, and they would do a fine job, I am sure.

Anyway, we found ourselves with a different problem. We have a certain mentality that has a real problem with this, and very likely maybe we should look to some of our other countries because we are not the repository of all that is right, well, and good, and all the intelligence in the world.

But be that as it may, we are still kind of faced with the problem right now of how do we handle it. We were just looking at some of the alternatives, the two routes here, one rail and one by the long haul.

Are these right for you folks, who know better than we do? Are these correct? Which one is this? This is the long haul. Can you see it from there? This is unfair, I know. I just want to make, before we close this thing up—make certain that we have this thing right. Can somebody who knows this come up here and tell us we are right on this.

Have we got some official from one of the counties who can put their stamp of approval on this? Can you tell me if we are right on this? I want to make sure that we know what we are doing here. We have this as the long haul, the heavy haul route. Is that right?

Unidentified SPEAKER. That is correct, from Caliente. That is the intermodal.

Mr. HANSEN. OK, now look over this one on the rails. Is that one right?

Unidentified SPEAKER. That is correct.

Mr. HANSEN. Thank you very much. I really appreciate that.

Commissioner Hunt, you talked about the growth of North Las Vegas. What kind of growth are you experiencing in that area of Clark County, in the northern part?

Ms. HUNT. Well, in all of Clark County, we were experiencing growth of four to five thousand new residents each month.

Mr. HANSEN. Wow. What was the growth between the 1980 census and the 1990, do you know, off the top of your head?

Ms. HUNT. No, I am sorry, I don't.

Mr. HANSEN. Pretty substantial, though?

Ms. HUNT. A couple hundred thousand, I am told by Senator Lowden. It is significant; the fastest growing area in the country, 14 percent a year. See, I am getting smarter by the minute.

Mr. HANSEN. We had better stop you before you go further. I won't get into the water problem, but I have been down there and I know the tremendous problems you folks have in the way of water.

Well, thank you very much. We surely appreciate the excellent testimony. And the folks from Nevada, thank you for coming here today. It was very kind of you to come. You are always welcome in this committee, regardless of what your Attorney General says.

Thank you.

[Whereupon, at 11:15 a.m., the subcommittee was adjourned and the following was submitted for the record:]

## STATEMENT BY REP. DAN SCHAEFER

ON H.R. 1020

## NUCLEAR WASTE POLICY ACT OF 1995

OCTOBER 10, 1995

BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, FORESTS  
AND LANDS

## COMMITTEE ON RESOURCES

Good morning, Mr. Chairman and members of the Subcommittee. I appreciate your invitation to testify this morning on H.R. 1020, the "Nuclear Waste Policy Act of 1995." H.R. 1020 was ordered reported by the Commerce Committee in a bipartisan vote of 30 to 4 on August 2. This vote reflects the approach that Congress has taken in the past to the problem of safe disposal of nuclear waste. This was not a partisan issue when Congress first addressed the problem in 1982, nor when it revisited the issue in 1987. Our two committees have worked closely together on nuclear waste legislation in the past. I am confident that we can continue that collaboration.

There is a limited window of opportunity to act on nuclear waste legislation. H.R. 1020 provides for development of a federal interim storage facility that can accept spent nuclear fuel and high-level radioactive waste beginning in 1998. This will fulfill the commitment that the federal government made in 1982. Under the bill, it is just possible to achieve acceptance in 1998. If Congress does not act until next year this goal may not be attained. For that reason, I appreciate that the Committee scheduled this hearing, and urge you to move to markup of the legislation.

H.R. 1020 is a comprehensive reform of the nuclear waste program. It provides for (1) interim storage of spent fuel and waste beginning in 1998; (2) acceptance of defense waste at the interim storage facility, which will expedite cleanup of contaminated Department of Energy (DOE) nuclear sites in four states; (3) transportation to the interim storage site; (4) repository operation by 2010; and (5) halting the diversion of consumer contributions to other federal programs. I believe that comprehensive reforms to the nuclear waste program are needed. Narrow fixes -- such as mandating interim storage in Nevada and abandoning the repository -- will not work.

As a westerner, I am sensitive to the concerns of Nevadans about this project. I agree with their concerns about an interim storage facility becoming a de facto repository, and included safeguards to prevent that from occurring. Under H.R. 1020, an interim storage facility is limited to 40,000 metric tons of uranium, enough capacity to continue acceptance until the repository is operational in 2010, but far less than the total amount of spent fuel and waste that will be generated. In addition, there are limits on the term of the license for the first and second phase of the interim storage facility. Further, I oppose proposals to terminate the repository and rely exclusively on interim storage, because I believe that would impose too great a burden on the people of Nevada.

## BACKGROUND

The Nuclear Waste Policy Act of 1982 established the Federal government's responsibility to manage and dispose of all high-level radioactive wastes. High-level waste includes spent fuel used by civilian nuclear power reactors, waste from nuclear weapons operations, and spent fuel from U.S. Navy vessels. Under the Act, waste would be stored in two deep geologic repositories, permanently isolating these radioactive materials underground.

In order to fund the program, Congress established the Nuclear Waste Fund, which is financed by a tax of one mill (one tenth of a cent) per kilowatt-hour of electricity generated by civilian nuclear power reactors and sold. By January 1995, ratepayers had paid over \$6.6 billion into the Waste Fund. Including interest earned and payments owed, the Fund raised over \$11.1 billion as of January 1995. However, only \$4.2 billion has been expended on program activities.

By 1987, DOE had narrowed its consideration of the first repository to sites in three States: Washington, Texas, and Nevada. Due to the slow progress towards developing a repository, Congress approved amendments to the Act in 1987, concentrating resources onto one site: Yucca Mountain, Nevada. The amendments also authorized development of a Monitored Retrievable Storage (MRS) facility for interim storage, but the search for an MRS site was unsuccessful.

The work at Yucca Mountain has been plagued by a host of management problems, resulting in a 12-year time lag in repository operation. Recent program changes have improved management and established more realistic schedules. However, there is still room for management reforms.

## MAJOR PROVISIONS OF H.R. 1020

### Interim Storage

A major problem facing most nuclear utilities is the lack of off-site spent nuclear fuel storage space. Currently, spent fuel is stored on-site at the nation's 73 nuclear reactor sites. There are 109 operating reactors and nine shut-down reactors in the U.S., located in 34 states. With the lack of progress on a repository, however, many reactors now face a shortage of storage capacity. By 1998, 26 reactors will have run out of storage space; by 2010, 80 reactors will have reached capacity.

H.R. 1020 addresses the impending shortage of at-reactor storage capacity by providing for interim storage at a federal facility at Yucca Mountain, Nevada by 1998. Significantly, H.R. 1020 includes limits on the interim storage facility to assure it does not become a de facto repository.

The bill makes a number of changes to assure that the goal of acceptance at a federal interim storage facility in 1998 is achieved. First, the bill provides for phased licensing, with the first phase modeled on existing facilities built and licensed at six utility sites. Second, H.R. 1020 provides for construction of a rail spur in Nevada to permit rail shipments to the interim storage facility and



intermodal transfer until that rail spur is completed. Third, the bill guarantees full NEPA review of both transportation and acceptance at an interim storage facility. H.R. 1020 permits construction of the interim storage facility before NEPA review, but requires an EIS before the facility can operate. Fourth, the bill provides for land withdrawal of the interim storage site.

### **Repository**

To date, the nuclear waste program has been focused on a permanent disposal solution for high-level radioactive waste and spent nuclear fuel. The important fission products in high-level radioactive waste require special isolation for at least 300-500 years before they no longer pose a serious health risk. Other radioactive wastes with longer half-lives will remain a health and safety risk for thousands of years. For that reason, a strong repository is still essential, and H.R. 1020 reinforces the current repository program.

Commercial spent nuclear fuel will total 85,000 metric tons and DOE estimates defense waste will total 185,000 metric tons. Current law limits the capacity of the repository to 70,000 metric tons, significantly less than the total amount of spent fuel and waste. H.R. 1020 removes this cap and directs D-O-E to maximize the capacity of the repository. However, it does not specify a capacity, since the capacity will be determined by the scientific results of characterization.

Significantly, most defense waste cannot be stored at an interim storage facility. The absence of a repository is a factor in the lack of progress on environmental remediation within the DOE weapons complex and will greatly complicate cleanup of DOE facilities in the future..

H.R. 1020 provides for repository operation by 2010. Many have complained that Congress has established unrealistic deadlines for this program in the past, but this deadline is the current target set by DOE. Full NEPA review would take place before repository construction and operation, but that review would be focused to reflect decisions already made by Congress. For example, an EIS would not consider the need for a repository since Congress decided that 12 years ago. The bill would establish a radiation release standard of one-third background level that the Nuclear Regulatory Commission (NRC) can change if it believes this standard does not protect public health and safety.

### **Nuclear Waste Fund**

One of the problems that has undermined progress in the DOE program nearly since its inception is the budgetary treatment of revenues and spending. Under current law, the fees are mandatory receipts and spending is discretionary. The \$600 million in revenues are generated regardless of the level of program spending, creating an incentive to hold down program spending well below the \$600 million level and deposit excess payments into the Nuclear Waste Fund, artificially reducing the budget deficit.

This year is a case in point. Annual fees generated \$600 million in revenues. However, only one-third of these revenues will actually be spent on the D-O-E program, with the

remainder being deposited in the Nuclear Waste Fund. The net effect is consumers will receive a 33 cent program for every dollar they contributed. That situation was unacceptable to the Commerce Committee, and it sought to assure consumers receive a dollar on the dollar. The option selected by the Commerce Committee assures the program will remain subject to the discipline of the appropriations process, addresses the historic disconnect between the treatment of revenues and spending, and makes both revenues and spending discretionary.

### **Railroad Route**

I understand that the Resources Committee is considering a number of changes to H.R. 1020. As I indicated earlier, our two committees have always worked closely together on nuclear waste legislation, and I am sure that we can reach agreement.

One such change may be to the route for the rail spur to be constructed in Nevada. The original version of H.R. 1020 selected a route that ran through Las Vegas and two wilderness study areas. After consultation with county and local officials, the Commerce Committee adopted a different route, one that begins in Lincoln County, Nevada, crosses the Nellis Air Force Base, and runs to the Nevada Test Site. I understand the Air Force has indicated this route would have minimal impacts on training operations if no overflight restrictions are imposed. However, the Air Force believes this route would have significant impacts on classified programs, and has proposed an alternative that skirts Nellis Air Force Base. This change would increase the cost of the rail spur, but achieves our goal of avoiding Las Vegas.

### **State Benefits**

In recognition of the impact that the DOE nuclear waste program has on Nevada, H.R. 1020 includes a state benefits title that reflects the input of Nevada county and local officials. Our approach is modeled on current law, which involves direct payments. This does not reflect a lack of support for other approaches, such as providing land compensation and other forms of compensation in lieu of direct payments. I welcome any suggestions the Committee may have on the appropriate method of compensation. However, I believe very strongly that compensation should be directed to county and local governments, since they are most impacted by the program.

Mr. Chairman and members of the Subcommittee, that concludes my statement. I would be happy to answer any questions you may have at this time.

STATEMENT OF MAITLAND SHARPE

Assistant Director for Resource Assessment and Planning  
Bureau of Land Management

Before the Subcommittee on National Parks, Forests and Lands

October 10, 1995

on H.R. 1020, the Integrated Spent Nuclear Fuel Management Act  
of 1995

Thank you for the opportunity to testify on H.R. 1020, a bill to amend the Nuclear Waste Policy Act of 1982.

We have been asked by Subcommittee Staff to comment on proposed amendments that would transfer a number of parcels of public land managed by the Bureau of Land Management (BLM) to Nye and Lincoln Counties in Nevada. Although we were provided earlier this week with the legal descriptions of these parcels, we have not yet received copies of the substantive amendments. Accordingly, we don't know the terms and conditions of the transfer and are unable to provide specific comments. Our comments are therefore general in nature and based upon a review of the lands proposed for transfer.

A cursory review of the legal descriptions provided by the Subcommittee reveals that several of these parcels have been identified through the BLM planning process as suitable for disposal. However, other tracts are encumbered by mining claims, grazing allotments, airport leases and the like. Furthermore,

some parcels are already being utilized for public purposes by both the State of Nevada and Nye and Lincoln Counties under leases issued pursuant to the Recreation and Public Purposes (R&PP) Act, while others are subject to pending R&PP applications. Depending on the terms and conditions of this land transfer, it may decrease receipts, and thus be subject to the PAY-AS-YOU-GO requirements of the Omnibus Budget Reconciliation Act of 1990.

The R&PP Act provides an administrative means by which public lands can be leased or patented at nominal cost to State and local entities for recreational and public purposes. Such conveyances reserve minerals to the United States, require that the lands be used for specific public purposes, prohibit the sale of the lands, and contain a reverter to the United States in the event that the lands are not used for the intended purpose. These limitations protect the public interest in the use of public lands while providing for the public and recreational needs of State and local governments. This system has worked well for all entities involved and we would suggest that any legislative conveyances adopt these guidelines.

We have also been made aware that additional amendments may be forthcoming that would transfer larger quantities of public land to the State of Nevada. While we have not seen the text of such amendments, we urge that any such substantive change not be included in this legislation without a hearing and an opportunity

for the administration to supply comments after a thorough review of the proposal. .

Thank you again for the opportunity to testify. I would be happy to answer any questions that you may have.

**STATEMENT OF  
DANIEL A. DREYFUS, DIRECTOR  
OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT  
U.S. DEPARTMENT OF ENERGY  
BEFORE THE  
SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND LANDS  
RESOURCES COMMITTEE  
UNITED STATES HOUSE OF REPRESENTATIVES  
OCTOBER 10, 1995**

**INTRODUCTION**

Good morning Mr. Chairman and Members of the Subcommittee. I am Daniel A. Dreyfus, Director of the U.S. Department of Energy's Office of Civilian Radioactive Waste Management. At your request, I am pleased to address today the "Integrated Spent Nuclear Fuel Management Act" (H.R. 1020).

The Administration has not yet developed a formal position on H.R. 1020. My testimony will be limited, therefore, to the history and status of the existing program and the practical considerations of the proposed legislation.

**BACKGROUND**

The U.S. has an inventory of spent nuclear fuel produced by some 118 operating and shutdown nuclear reactors in 34 states. Existing storage facilities at commercial utility reactor sites are reaching their full capacities. Today, seven utilities are providing additional dry storage for some

600 metric tons of uranium (MTU). By 2010, the earliest time in which we could expect to begin to emplace waste in a geologic repository, the figures will rise to 55 utility reactor sites in 30 states needing dry storage for about 11,000 MTU.

Without a centralized storage or disposal facility, extended at-reactor storage for many decades could become necessary. This is a scenario that was never envisioned by the communities near existing nuclear power plants, the state public utility commissions that authorized investments in those power plants, the utilities who constructed them, the Nuclear Regulatory Commission that licensed them, or the Congress, which established Federal responsibility for accepting the waste. Consequently, as reactor sites require more storage on-site, technical constraints or local opposition could threaten the ability of some utilities to continue the operation of otherwise efficient and economic generating units. It is worth noting, however, that the Commission has determined that extended storage at existing commercial reactor sites, if properly undertaken in accordance with Commission requirements, does not threaten public health and safety.

Without a storage or disposal facility, there will be no path forward for the high-level radioactive waste resulting from the clean-up of many of our nuclear weapons production sites, the receipt of foreign research reactor spent fuel of U.S. origin, and other high-level radioactive wastes owned by the federal government.

**The Civilian Radioactive Waste Management Program**

In 1982, Congress passed the Nuclear Waste Policy Act (NWPA), confirming the Federal responsibility to manage the disposal of commercial spent fuel and adopting the strategy of geologic disposal as the long-term solution. Later, in 1985, the President determined that defense-related high-level wastes would also be disposed of in a geologic repository. Additional materials for disposal include spent nuclear fuel of U.S. origin from foreign research reactors and spent nuclear fuel owned by our government, including spent fuel from nuclear powered naval vessels.

The NWPA included provisions to finance the nuclear waste program through a fee on consumers of nuclear energy. This financing approach preserves intergenerational equity by providing resources for the management of nuclear waste in a manner that does not impose undue burdens and risks on future generations.

The commercial or civilian portion of the program is funded through appropriations from the Nuclear Waste Fund, which is collected from the ratepayers of nuclear-generated electricity. Contributions to the fund are approximately \$600 million per year. To date, the fund has received over \$8 billion (including interest) and the program has spent about \$4 billion. About \$1.7 billion of this amount has financed the on-going site suitability evaluation of the Yucca Mountain candidate repository site in Nevada. The portion of the program's cost estimated to be



associated with the disposal of defense-related waste is covered by other appropriations of general funds.

In 1987, the Congress amended the NWPA. Among its other provisions, the amendment directed the Department to limit the repository program to the evaluation of the Yucca Mountain site's suitability for geologic disposal. The amendment restricted the Department's authority to site and develop an interim storage facility.

With regard to the status of our activities at the Yucca Mountain site, our 25-foot-diameter, 720-ton tunnel boring machine (TBM) was delivered, assembled, and tested for start-up on September 19, 1994. As of October 2, 1995, our TBM was 6,569 feet into Yucca Mountain, more than 2,350 feet ahead of schedule. We have completed more than one-fifth of the tunnel that we proposed in our program plan. Our progress into the mountain has permitted our scientists to begin direct observation and testing of the site's geologic features. Three underground test alcoves have been completed with another one currently under construction.

With appropriations that meet planned funding levels, the current program approach calls for the completion in 1997 of the remaining portions of the tunnel and associated test alcoves and drifts.

In our surface-based testing program, we have also met all of our goals for fiscal year 1995. We have implemented a systematic drilling program that is providing us with data to create a 3-dimensional geophysical model of the Yucca Mountain site.

Our Program Plan, which assumes the budgeted fiscal year 1996 appropriation of \$630 million, includes a target date for a Departmental conclusion about the technical suitability of the Yucca Mountain site in 1998. This will accommodate a target date for a license application to the Nuclear Regulatory Commission in 2001, receipt of a construction authorization from the Commission in 2004, and the initial emplacement of spent nuclear fuel in 2010.

There is no current authority under the NWPA to initiate action on interim storage at a specific site. Our program, however, includes a set of activities that are relevant to the acceptance of spent fuel. They include on-going relations with the utilities and other federal organizations, preliminary planning for the nationwide transportation system that will be required, and the development of the next generation of transportation and storage technology, the multi-purpose canister system.

#### Summary of H.R. 1020 Provisions

H.R. 1020 directs the Department's Civilian Radioactive Waste Management Program to expedite the development of an interim storage facility near the Yucca Mountain site to facilitate the Department's acceptance of commercial spent nuclear fuel by 1998. It directs the Department to continue site characterization for a permanent repository, and designates the construction of a rail spur from the mainline rail line at Caliente, Nevada, to the interim storage facility site. It also specifically eliminates funding for the multipurpose canister system.

H.R. 1020 does not require the Department to prepare an Environmental Impact Statement for the interim storage facility. The bill does, however, direct the Department to prepare an Environmental Impact Statement for construction and operation of the rail spur. It also directs the Nuclear Regulatory Commission to prepare an Environmental Impact Statement to accompany its licensing action associated with the interim storage facility. It authorizes acceptance of defense waste, foreign research reactor spent fuel, and spent fuel from shut-down reactors when the acceptance rate pursuant to the existing disposal contracts between the Department and the utilities has been achieved.

With regard to program funding, the bill states that annual fees shall match the annual level of appropriations less prior year carryover and defense appropriations, and that waste fees received after its enactment go directly to the Treasury rather than the Nuclear Waste Fund.

## **FEDERAL LAND WITHDRAWAL**

### **Land Withdrawal Within the Civilian Radioactive Waste Management Program**

The NWP, as amended, does not address the withdrawal of federal land. There has been no land withdrawal for the scientific and technical investigation of the Yucca Mountain site. Administrative land withdrawal, as provided for under the Federal Land Policy and Management Act, has a maximum 40-year withdrawal period; therefore the construction of a geologic

repository at the Yucca Mountain site would require legislative action for the permanent withdrawal of land for this purpose.

The Yucca Mountain site comprises a mix of federal lands under the jurisdiction of the Department of the Interior. Some of these lands have already been withdrawn for use by other federal agencies, including the U.S. Air Force and the Department of Energy. The ongoing characterization of the Yucca Mountain site is taking place through agreements with these agencies.

**Bureau of Land Management (BLM).** The Department has a right-of-way reservation (N-47748) from the BLM that includes lands west of the Nevada Test Site and south of the Nellis Air Force Range. The Department has assigned this reservation to its Nevada Operations Office. The reservation will expire in 2001.

In September of 1990, the BLM withdrew mineral rights within the area of Right of Way Reservation N-47748 from operation of the mining and mineral leasing laws. This action was taken to prevent mining claims from being staked over the repository block and does not provide any additional land use rights.

**U.S. Air Force.** The Nellis Range was withdrawn for the Air Force by the Military Land Withdrawal Act of 1986. This withdrawal expires in 2001. The Department has a right-of-way reservation (N-48602) for a portion of the Nellis Range, located north of the land reserved under

N-47748 and west of the test site. This reservation has also been assigned to the Department's Nevada Operations Office. It too will expire in 2001; however, the Air Force has already started the process to renew it.

**The Department of Energy.** The BLM withdrew land from the public domain for the Department's Nevada Test Site in four parcels beginning in 1952. The Yucca Mountain Site Characterization Office has established a Memorandum of Agreement with the Department's Nevada Operations Office for use of the western part of Area 25 of the Nevada Test Site.

#### **Land Withdrawal Under H.R. 1020**

The land withdrawals proposed in H.R. 1020 generally follow the provisions of the Federal Land Policy and Management Act. They are, however, not subject to its limitations and restrictions.

Section 201 of H.R. 1020 addresses land withdrawal and the acquisition of rights-of-way for the railroad spur and the intermodal transfer facility. It directs the Secretary to acquire rights-of-way and withdraw public lands as necessary within the "Caliente route" for the construction and operation of transportation facilities and associated activities. It also directs the Secretary to provide for the replacement of land and city wastewater disposal activities necessary to commence intermodal transfer activities no later than January 31, 1998. Section 206 addresses land withdrawal for the repository and interim storage facility.

Sections 201 and 206 direct the Secretary to publish, within six months of the bill's enactment, Federal Register Notices containing legal descriptions of the Caliente route, the sites and rights-of-way to be acquired for the intermodal transfer facility, and the land to be withdrawn for the interim storage facility. With regard to the geologic repository, Section 206 further requires the Secretary to publish, concurrent with the application to the Nuclear Regulatory Commission for authority to construct a repository, a Federal Register Notice containing a legal description of the Yucca Mountain site.

Sections 201 and 206 also direct the Secretary to file copies of the aforementioned legal descriptions and maps depicting transportation routes, sites and rights-of-way to be acquired, and lands to be withdrawn with all or some of the following groups: the Congress, the Secretary of the Interior, the Archivist of the United States, the Governor of Nevada, the Board of Lincoln County Commissioners, the Board of Nye County Commissioners, and the Caliente City Council.

## **CONCLUDING REMARKS**

The program would need to seek Congressional land withdrawal authority for the geologic repository site and the necessary transportation access routes sometime in the future, should the site be found suitable for repository development. In view of the complexities of the Federal land ownership patterns in and around the Yucca Mountain site, if additional authority for the program is enacted to provide for interim storage, a related rail access spur, and an intermodal

transfer facility, that legislation should also provide for the necessary withdrawal of public land. Failure to provide these lands could lead to protracted delays in realizing the intent of the legislation.

In closing, again, I would note that my remarks should not be construed as an official endorsement of the overall legislation. The Administration has not taken a position on H.R. 1020 at this time.

October 10, 1995

Statement of the Honorable Sue Lowden  
Committee on Resources  
Subcommittee on National Parks, Forests and Lands

Thank you Mr. Chairman and members of the Subcommittee. My name is Sue Lowden and I am the Majority Whip of the Nevada State Senate. I sincerely appreciate the opportunity to come here and testify before you with my thoughts on this legislation, H.R. 1020. I understand that the scope of this Committee's jurisdiction is very limited and will therefore keep my comments brief, but I do ask that my entire statement be included in the record.

The 104th Congress marked an historic change in the way politics is handled. This new sweep of politicians brought with them a commitment to change Washington, DC. The Contract with America and the outstanding work completed thus far by the new 104th Congress has continued to reflect the promises that were made. One promise that has been continually debated is the issue of states' rights. The new Majority has continued to reiterate its commitment to giving control back to the local governments. After all, it is the local officials who can best represent the wishes of the local communities. We, the Nevada State Legislature, have been behind you as this Congress has attempted to give the states the control they need. We have accepted the responsibility, forgone the funding and ready to implement federal programs such as welfare, school lunches, and Medicaid based on our own individual states' needs.

However, Congress is now addressing this legislation, H.R. 1020, that completely contradicts all the fine work you have completed. This legislation precludes Nevada from even vetoing any decision siting an interim waste storage facility within our borders. This legislation strips Nevada of its rights. Those very same states' rights that have been a fundamental component of this new Congress. This legislation sets a terrible precedent by sending the message that Congress is willing to go back on their word. A commitment



has been made to the states that they will be given a larger role in the issues facing their constituents. Now, you risk alienating our State and setting a precedent to all states that the state role is important only when convenient. When there are tough political decisions-the feds step in and take over.

H.R. 1020 is a political fix that has not been properly or thoroughly evaluated. It is being forced down the throats of Nevadans without the proper scientific, risk, economic or social considerations.

Because of my children, and generations to come, the Nevada State Legislature has repeatedly passed resolutions condemning the storage of nuclear waste materials in our state.

In the past Nevada has contributed greatly to our Nation's cause. The Nevada Test Site was used to detonate bombs. I visited the Air and Space Museum at the Smithsonian yesterday and was reminded of the role Nevada played in World War II. In your state as well, Mr. Chairman. Nevada certainly did not balk when the federal government called upon us. We have done our share in helping to solve our Nation's problems. We should not also be held accountable to solve the high level nuclear waste problem. When is enough-enough? This waste was created by nuclear reactors outside of our State. Our answer to energy in the future is solar, geothermal or even wind. Give us the tools to go forward with these alternatives. Please don't let us become the dump site for nuclear waste generated elsewhere.

I caution the members of this Committee and the entire Congress. There are more viable solutions to our nation's high level nuclear waste storage problem, such as I just mentioned. Establishing a temporary dump site in Nevada while at the same time continuing the study whether to put one at Yucca Mountain is a little bit like being pregnant while at the same time deciding whether or not you want to have a baby. It's a little too late!

I understand that Congressman John Ensign and Congresswoman Barbara Vucanovich have introduced legislation, H.R. 1924 that adequately and more sensibly addresses this complex problem. I challenge this Congress to weigh all the alternatives equally and carefully consider all the ramifications of the

outcome.

Thank you Mr. Chairman.

October 10, 1995

Statement of the Honorable Mark James  
Committee on Resources  
Subcommittee on National Parks, Forests and Lands

Thank you Mr. Chairman and members of the Subcommittee. My name is Mark James and I am a State Senator from the State of Nevada. I appreciate the opportunity to be here to provide input on this extremely important legislation, H.R. 1020, the Integrated Spent Nuclear Fuel Management Act. I will keep my comments brief, but ask that my entire statement be submitted for the record.

The legislation before this Committee poses significant adverse impacts on my state of Nevada. H.R. 1020 will have devastating repercussions on the health and safety of our citizens, our travel and tourism industry, and Nevada's ability to develop its very limited water supply.

I am a water and environmental lawyer by profession and as a member of the Nevada State Senate, I bring an acute understanding of the water and environmental problems facing our State. Mr. Chairman, as a member from Utah, I am sure that you also are very knowledgeable on the importance of water in Nevada, as in all Western states. I am very concerned that the Commerce Committee has included language which I interpret as violating state primacy over water rights. The Nevada Legislature has repeatedly and emphatically asserted Nevada's long recognized right to determine the development and use of Nevada's scarce water resources by all persons, including the federal government. To weaken that vital right of the Western states in this bill is a frightening precedent. This is a matter that should be addressed by the House Resources Committee, rather than the Commerce Committee and hope that you, Mr. Chairman and the members of this Committee take the necessary legislative actions to ensure that Nevadans will continue to maintain primacy over this precious and invaluable resource.

Secondly, this is a project that is being forced upon the people of Nevada. This is an issue that is being forced by political expediency, rather than sound, researched science. The Nuclear Waste Policy Act of 1982 granted the state selected as a repository the right to reject the dump. This at least embodied a commitment by Congress to respect Nevada's rights and to involve its citizens in the siting process. This legislation, H.R. 1020, abandons this commitment and creates what amounts to a permanent storage site for nuclear waste (certainly as far as our lifetime and those of our children are concerned). In short, if Congress passes H.R. 1020 it will in effect be welching on its original commitment to respect the rights and wishes of the people of Nevada.

Finally, I would like to briefly address an issue that does not just affect Nevada, but affects many other states, including Eastern states. That issue is the transportation of nuclear waste. It is an issue which affects 4/5's of our states. In fact, if an interim storage facility is sited in Nevada, nuclear waste will be transported through 43 states.

There are many uncertainties surrounding the transportation of nuclear waste to a repository making it extremely difficult to assess potential impacts and plans for contingencies. DOE and the nuclear industry point to the past history of spent nuclear fuel shipments as an indication of the inherent safety of this type of transportation activity. While it is true that, since 1962, there have been no radioactive releases as a result of transportation accidents, the amount of waste shipped to a repository in the first full year of operations alone will exceed the total amount shipped in the United States for the past 30 years.

In a paper presented to the State of Nevada Commission on Nuclear Projects in August of this year, Dr. Edward J. Bentz, Jr. states that the transportation of nuclear waste will come from 119 facilities at 74 locations in 34 states. With a projected high-capacity multi-purpose canister (MPC), there will be a need for at least 10,000 rail shipments over a 40-year period. By way of contrast, if a new high-capacity MPC is not adequately developed and transport is mainly dependent on a not-yet-certified truck cask, the anticipated number of shipments increases to over 40,000 truck shipments during the same 40-year period.

If the interim storage facility is sited at Yucca Mountain in Nevada, the average trip length is extremely long and would traverse an average of 10-plus states from most of the reactor points of origin.

This will involve the active participation of many state and local agencies in each and every state traveled through, such as state emergency response agencies, state utility commissions, and a myriad of transportation agencies.

What routes will this radioactive waste take? Are our railroads prepared to accept these high-capacity packages? Are their bridges and trestles up to the challenge? Who will pay for the potential infrastructure upgrades to accommodate these shipments? Spent fuel trains sharing the well-maintained, high-density rail corridors will have to meet the dispatch requirements of the system. It will be difficult to run spent fuel trains at operating speeds significantly below other traffic sharing the line without causing expensive interruption of scheduled service. A rail incident involving no release of radioactive materials but tying up a mainline for hours or days for inspections and recovery could be economically disastrous for a carrier.

The need for physical security from package interdiction and terrorism is a critical issue. In fact, in many past spent fuel campaigns, individual states have required physical escorts in addition to those required by the NRC. These public concerns are not restricted to the United States. In Europe, spent fuel shipments are currently restricted regarding time-of-use. For example, there is no spent fuel travel allowed during weekends or holidays. In addition, in several European countries, shipments are restricted from traveling through designated population areas, and are required to be escorted by on-line mobile emergency response equipment and personnel traveling with the shipment.

If shipments are sent by trucks on our highways, rather than by rail, what hazards will we face? What kind of shape are our interstate roadways in? Should nuclear waste travel through our major metropolitan areas? If not, what danger does it pose for our rural areas when it is sent on a two lane highway over difficult terrain? Who is the driver of this vehicle? What kind of training does he have? Where is he allowed to stop and for how long? What if he stops his rig at McDonald's while our children are playing?

The State of Utah just last week held a hearing on the transportation of this waste through their state to get to Nevada. Suzanne Winters, Utah's science adviser, said it is "irresponsible" to consider a national disposal site in Nevada when 90% of the spent fuel is located east of the Mississippi river. Eastern states have benefitted from nuclear power, she said, "but now they are unwilling to accept the responsibility for waste disposal."

Utah is just the first of many states who will begin challenging this concept once they realize the impact of transporting nuclear waste through their states.

Besides the safety concerns, who is going to pick up the tab to retrofit all of the railways, freeways and highways needed to transport this dangerous material? What kind of expenditures are you, as Congress, willing to add to the budget to accomplish this massive undertaking?

The transportation issues are so overwhelming it is foolhardy to site an interim storage facility until many of these questions are answered. On behalf of Governor Miller of Nevada and a majority of our legislature, I strongly recommend that you leave the waste where it is--at the reactor sites.

Let's be cautious about endangering the roadways and lives of citizens in the vast majority of our states. There is a much more logical solution, put forth by Nevada's own elected officials that deserves to be considered. This Congress has failed to act on H.R. 1924, the Interim Waste Act, and apparently failed to recognize the drastic consequences of its rushed actions on H.R. 1020. I strongly urge the members of this Committee to take a closer look at exactly what this bill would do.

Thank you Mr. Chairman.

CAMERON McRAE  
CHAIRMAN  
BOARD OF COMMISSIONERS  
NYE COUNTY, NEVADA

TESTIMONY BEFORE

SUBCOMMITTEE ON NATIONAL PARKS, FORESTS, AND LANDS  
COMMITTEE ON RESOURCES  
U.S. HOUSE OF REPRESENTATIVES  
OCTOBER 11, 1995

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Good morning. My name is Cameron McRae. I am Chairman of the Nye County, Nevada, Board of County Commissioners in Tonopah, Nevada.

I want to thank the Committee for the opportunity to present our views on this critical issue for the nation and for Nye County. Nye County is the host jurisdiction for the Yucca Mountain Project, and if H.R. 1020 is enacted, will be designated as the location for the nation's only interim spent fuel storage installation. More than any other jurisdiction in the country, Nye County may be asked to bear the burden for managing the nation's spent fuel and high-level waste.

In my June 30<sup>th</sup>, 1995 testimony to the House Commerce Committee's Subcommittee on Energy and Power, I addressed a range of issues related to the transportation, storage, and disposal of high-level nuclear waste, particularly as they might impact Nye County. I also noted that the County maintains a long-standing monitoring and oversight program under the authority of the Nuclear Waste Policy Act, as amended, with Nuclear Waste funds annually appropriated by Congress. An overview of this program is provided in the Appendix to this statement. Congressional support for this program must be sustained if there is any hope that Nye County residents can develop confidence in the proposed integrated waste management system.

We have carefully evaluated all the proposals before Congress to overhaul the nation's nuclear waste management policy and have articulated a set of principles that we believe any new legislation should meet. These are included as Appendix B to this statement, and we look to Congress to commit to these critical expectations.

Though I am prepared to discuss any point of interest to this Committee, I will focus my testimony this morning specifically on transportation of nuclear wastes to Nye County, the construction of a rail spur to the Nevada Test Site, and the conveyance of public lands as an equity offset for hosting these facilities.

Finally, I have with me four documents Mr. Chairman, that I request be entered into the Committee's official record, as they are relevant to your considerations today. The first document is entitled *Proposed Protections and Equity Offsets* and enumerates the terms Nye County has proposed in the event that a site within our jurisdiction is designated by the federal government for interim storage and/or disposal of spent nuclear fuel and high-level nuclear waste. The second document is entitled *Potential Rail Route Options to the Nevada Test Site and Yucca Mountain* and details our analysis of the geographic and logistical characteristics of the four most viable alternative transportation route alignments. The third document is entitled *Siting Rail and Cask Maintenance and Other Support Facilities in Nye County, Nevada*. The final document that I request be accepted for the record is entitled *Public Lands of Interest to Nye County, Nevada*.

## Background About Nye County

Nye County is the second largest county in the lower 48 states--about the same size as Vermont and New Hampshire combined. We are also one of the fastest growing. Our population tripled during the last 15 years and we expect it to double again during the next 15 years.

Our economy has historically been based on mining and ranching. With the arrival of ever increasing numbers of retirees, new businesses, and others, services have become the dominant economic sector.

The federal government has an overwhelming presence in Nye County. Altogether, 93 percent of the County is managed by the federal government, mostly the Bureau of Land Management. The Nevada Test Site, Nellis Air Force Range, and Tonopah Test Range occupy 2.1 million acres, or about 19 percent of the total land area in the County. These installations have provided a unique platform for weapons testing, advanced research projects, military training, and other sensitive activities. The accompanying figure shows the location of key federal installations in Nye County.

Unfortunately, Nye County has realized little benefit from the presence of these federal installations. Ever since the Nevada Test Site was established, the federal government has provided subsidies that encouraged workers and support operations associated with NTS and Nellis to be located outside of Nye County. At present only one of ten employees who works at the Test Site live in Nye County and less than one tenth of one percent of Test Site procurements flow through Nye County businesses.

A key long term goal for the County is therefore to realign its relationship with the federal government, so that these installations we host can make a greater contribution to our residents and economy.

The challenge we face, however, is that the important decisions about the Nevada Test Site, the Yucca Mountain Project, and a potential interim storage facility will be made by others who do not live in Nye County and have little appreciation of our history or goals for the future. Even within our own state, Nye County's voice -- coming as it does from a rural community -- is often eclipsed by its two urban counterparts. Nye County residents, for example, made up only 4% of the respondent base in a recent survey sponsored by the University of Nevada concerning the future role of the Nevada Test Site. Yet the Nevada Test Site is 100% within the boundaries of Nye County.

Our intent with regard to nuclear waste issues, then, must be to protect ourselves by carrying out vigorous technical oversight, addressing project impacts, and working to obtain reasonable equity offsets.

## Nye County's Views on Transportation

With regard to transportation, Nye County has completed a detailed analysis of the transportation options under consideration by DOE. The results of this analysis are compiled in the report I earlier offered for the record.

Two issues discussed in this report are especially noteworthy. First, Nye County believes that shipments by rail are preferable to shipments by highway, and we hope that truck shipments on the highways leading to the Nevada Test Site will be minimized. Second, the Department of Energy is already shipping substantial amounts of low-level radioactive waste to the Nevada Test Site--about 165 million pounds in some 4500 truck shipments during FY 1994. We would prefer that these shipments be made by rail.



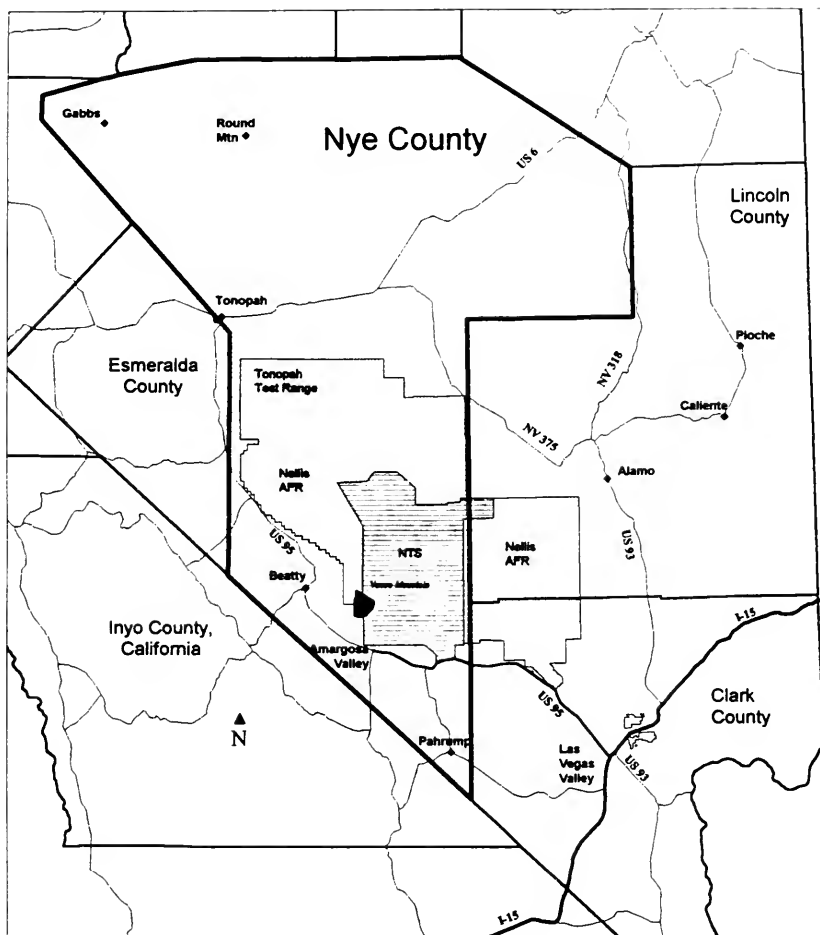


Figure 1. Nye County in Relation to the Nevada Test Site and Yucca Mountain

The Nye County Board of Commissioners has not taken a position either in support of, or in opposition to, any particular rail spur route to the Nevada Test Site. Any route could have substantial impacts on Nye County residents, and any route offers advantages and disadvantages. Instead we have defined a set of conditions and criteria that any potential route should meet, including the following:

- The route should be aligned for maximum health and safety protection of Nye County residents.
- The route alignment and construction should be planned at each stage in consultation with Nye County. DOE should be required to consider Nye County's input regarding sensitive characteristics of potential route alignments in the vicinity of Warm Springs, Tonopah, Oasis Valley, Beatty, and Amargosa Valley.
- Nye County emergency services personnel must be adequately trained and equipped to respond to transportation accidents.
- The route should be available for use in other DOE operations at NTS (e.g., shipment of low-level radioactive waste from the DOE complex, support for future use options at NTS.), thereby reducing the amount of such waste on our highways.
- Nye County must be protected from any liability stemming from its consideration of these routes and procedures.
- The route should provide spur access for alternative uses to industrial development areas near the corridor.
- The route should be available under reasonable conditions, negotiated with Nye County, for shipments of industrial, mining, or agricultural products.
- Maintenance and operation facilities should be placed in Nye County locations.

We think these conditions are reasonable and appropriate. With regard to the last point, we have carefully analyzed DOE's conceptual design report for the Caliente route, and have concluded that numerous facilities and operations needed to support the rail spur, as well as operation of other elements of the integrated waste management system, could and should be located in Nye County. I request that this analysis be entered into the record.

#### **Conveyance of Public Lands**

As I have previously noted, 93% of Nye County is currently publicly owned lands. In an April 7, 1995 statement to the House, as reported in the Congressional Record, Resources Committee Chairman Young made a number of points that resonated with Nye County. First of all, he recognized that no unilateral action should be taken by the Federal Government without "...special consideration being afforded by the affected State and local government." He further went on to acknowledge that the "controversial matter" of designating the Nevada Test Site for interim storage provided an opportunity to implement this philosophy and he specifically suggested a public lands conveyance as one type of special consideration. Nye County welcomes Chairman Young's initiative and believes that his concept is consistent with our position that equity offsets should accompany the designation of any site for storing or disposing of nuclear waste.

In this light, Nye County site has identified parcels upon which to locate support facilities should NTS or Yucca Mountain be designated for storage or disposal of nuclear waste. In addition, parcels are also needed to address landfill needs of Nye County's growing population. Since the Subcommittee has jurisdiction over public lands, Nye County requests that the parcels identified in Appendix C be conveyed to Nye County as part of H.R. 1020 and that the opportunity be available for the County to access additional acreage in the future.

### **Conclusion**

I will close with a broader perspective on Nye County's views on nuclear waste. For most of the last 50 years the federal government has looked at Nye County as an empty quarter that can be sacrificed in the interests of larger national goals. We have been subjected to hundreds of nuclear detonations, countless practice bombing runs, and the disposal of DOE defense program's low-level and high-level nuclear waste.

Many people think Nye County may therefore be better suited for nuclear waste disposal than anyplace else. We cannot, however, allow you to forget that the wide open spaces of Nye County are also home to thousands of people. Further, our community maintains the same ambitions as all others in the country to secure a safe, high quality of life for our residents and a bright future for our children.

I assure you we will be as constructive as possible in working to protect the health, safety, and quality of life of the growing number of people who call Nye County home. Our constructive approach, however, carries with it the expectation that Nye County will be honorably treated by a nation that, by all reckoning, will be asking us again to take on a burden that no one else will accept.

## APPENDIX

# **NYE COUNTY NUCLEAR WASTE REPOSITORY PROJECT OFFICE PROGRAM SUMMARY**

The Nye County Board of Commissioner established the County's Nuclear Waste Repository Project Office (NWRPO) in 1983. Operating funds were initially provided by the State of Nevada. Subsequent to the 1987 Amendments Act, such assistance has been annually appropriated by Congress, ultimately in the form of a direct payment.

The Nye County Nuclear Waste Repository Project Office is organized as follows:

- On-site representation and regulatory and licensing analysis
- General program monitoring, review and comment
- Socioeconomic monitoring and impact assessment
- Environmental and radiological impact monitoring
- Transportation and emergency management
- Public information, involvement, and education

Key activities in each of these program areas are summarized as follows.

## **On-Site Representation**

The NWRPO's on-site representation program uses a multi-disciplinary support team to investigate those site suitability issues of greatest concern to the County. The on-site representative provides hands-on, real-time monitoring and analysis of Yucca Mountain Project field activities. The NWRPO's proactive investigations include:

- surface-based sampling and analysis
- review and analysis of raw data from the Yucca Mountain Project
- borehole drilling, geologic and geochemical data collection and analysis.

The key site performance issues being investigated by the NWRPO include:

- |  |                                       |
|--|---------------------------------------|
| • vadose and disturbed zone hydrogeology | • retardation of radionuclides        |
| • disturbed zone site performance        | • tectonic/volcanic and seismic risks |
| • climate change impacts                 | • age dating processes                |

In addition to site performance issues, the NWRPO is coordinating with Inyo County on investigations of regional hydrogeology issues, focusing on the carbonate, tuff, and alluvial aquifers.

A significant element of the NWRPO's technical program is drilling into the vadose zone for independent investigation and verification purposes. As part of this effort, the NWRPO has finished drilling the first of three planned boreholes at Yucca Mountain. Nye County is the only entity outside of DOE that is currently collecting data at Yucca Mountain.

The primary aim of the drilling program is to generate our independent data to verify the credibility of the data generated by DOE's program. The NWRPO also wants to gather data on features of the site it believes DOE is neglecting. Finally, the NWRPO wants to demonstrate the feasibility of using less expensive drilling technologies that, if used by DOE, could permit a more comprehensive surface-based characterization program than is currently envisioned.

## **Regulatory and Licensing Analysis**

The regulatory and licensing requirements for Yucca Mountain provide the framework within which DOE is carrying out the repository program. The NWRPO participates in pre-licensing activities by reviewing and commenting on formal staff positions, on draft regulatory guides, and on draft procedural rules. The NWRPO maintains a high-quality technical capability, adheres to quality assurance requirements in its license-related oversight, and maintains a data management capability that will interface with NRC's licensing support system. The licensing support system will be a database management system that will store the millions of pages of documents that must be readily available for review during the licensing process.

DOE is planning to develop environmental impact statements on the proposed multi-purpose canister system, the repository at Yucca Mountain, and a rail spur to Yucca Mountain. The NWRPO will participate in the NEPA process by offering scoping comments, reviewing and commenting on implementation plans, and reviewing and commenting on the draft EISs. The NWRPO will also undertake efforts to inform County residents about the NEPA process and how they can participate more effectively.

## **General Program Monitoring, Review and Comment**

Nye County invests considerable time and resources reviewing and commenting on DOE's program documents and attending meetings on DOE's technical program. In addition, the County closely monitors the activities of the Nuclear Waste Technical Review Board, Nuclear Regulatory Commission, NRC's Advisory Committee on Nuclear Waste, Environmental Protection Agency, General Accounting Office, and National Academy of Sciences, as well as other affected parties such as the State of Nevada, National Association of Regulatory Utility Commissioners, the nuclear power industry, and national and state environmental groups. The County submits formal comments on most key DOE program documents.

## **Socioeconomic Monitoring and Impact Assessment**

The socioeconomic program component is an on-going effort to build and maintain the capacity to assess the potential socioeconomic impacts of the Yucca Mountain Project on Nye County residents, economy, and government. The Nye County Nuclear Waste Repository Project Office also has the responsibility to seek mitigation of impacts resulting from site characterization, and, if the site is found suitable, for the effects of repository construction and operation.

The NWRPO is further responsible for coordinating efforts between DOE and the County for collecting data needed by both parties, which is, in many cases more readily accessible to one or the other.

The NWRPO has developed and implemented a comprehensive socioeconomic monitoring and data collection capability, as well as models for projections, procedures for impact assessment, and special investigations of community conditions and characteristics.

In addition to this traditional approach to documenting the socioeconomic conditions of Nye County, which can be skewed toward the "economic" dimensions of County life, the NWRPO has developed supplementary descriptions of the current social and cultural characteristics of the population, quality of life, and their historical evolution. This information has become the sociocultural baseline condition of the County and will assist with future impact analyses.

The State of Nevada and other affected counties have pursued the identification of special repository-related impacts, i.e., impacts associated with the perceived hazardous nature of the repository. The NWRPO has incorporated a module into its socioeconomic modeling capability to address potential stigma effects.

The Nuclear Waste Policy Act, as amended, entitles Nye County to payments-equal-to-taxes (PETT) from DOE. The NWRPO provides policy advice to the County Commission and County Manager in their negotiations with DOE on PETT.

### **Environmental and Radiological Impact Monitoring**

DOE has developed a number of planning documents describing its environmental assessment program. NWRPO monitors DOE field data reports to track conditions that could lead to impacts. In addition, periodic field audits will need to be performed to verify that appropriate techniques, in the County's judgement, are being used by DOE and that equipment is accurately calibrated. The County will also establish a database for those conditions that it feels are essential to document in their undisturbed condition, in order to be able to make its case for impacts from a true baseline condition.

The County believes it must understand baseline radiological conditions in the region around Yucca Mountain before nuclear waste is transported to or disposed of at the site. DOE has put in place a *Radiological Monitoring Program* that will support analyses of compliance with preclosure siting guidelines in the area around Yucca Mountain. The NWRPO monitors DOE's implementation of the RMP and will institute an independent assessment of historical data gathered by DOE for the Nevada Test Site. After reviewing DOE's RMP and completing an analysis of the NTS monitoring database, The NWRPO will determine whether the County needs to collect and analyze its own radiological data.

### **Transportation and Emergency Management**

The transportation and emergency management program focuses on understanding and responding to the risks of nuclear waste transportation and ensuring that County emergency response personnel will be trained and equipped to handle accidents during transportation or waste handling at the repository.

### **Public Information, Involvement, and Education**

The public information and education program is intended to ensure that County residents stay informed about repository-related issues and have an opportunity to have their views on NWRPO's work be heard and responded to. An advisory board has been operating during the last five years. Residents have been invited to workshops sponsored by NWRPO and a newsletter has been published. NWRPO regularly provides materials to County libraries and arranges tours for interested residents.

In conjunction with the County school system, the NWRPO has also instituted a science, environmental, and risk education program aimed at strengthening the technical knowledge base of Nye County students and to provide opportunities for science based internships. Since the repository would be a long-term project, the County aspires to develop the capability among the next generation to conduct the County's monitoring and oversight of the Yucca Mountain Project.

### **Formal Interactions**

Nye County has consistently believed that its participation in repository-related activities would be facilitated by establishing a formal process for interacting with DOE. Under the responsibility of the NWRPO, agreements have been reached with DOE establishing a *Framework for Interactions* and various protocols. The protocols address principles and procedures for interactions, socioeconomic monitoring and assessment, on-site representation, and on-site drilling.

## APPENDIX B

Principles for Sound Nuclear Waste Management Policy  
Nye County, Nevada

***Put good science first*** Preserving scientific integrity must be the top program priority. Nye County is fully aware of the situation facing the nation's utilities and ratepayers, but we remain concerned that in the rush to solve the spent fuel storage problem, good science is becoming less of a priority than meeting waste acceptance schedules. The program to determine whether Yucca Mountain is suitable for a repository must be viewed first as a scientific enterprise that must be allowed the flexibility to address uncertainties and surprises in the data.

***Preserve strong oversight roles*** We believe continued strong oversight of the waste management program is vital at the national, state, and local levels. At the national level, this requires preserving the independence and authority of the NRC, as well ensuring a strong role for the Nuclear Waste Technical Review Board. Equally important, we believe it is essential that Nye County and the other affected units of local government continue to be empowered to participate fully in the program.

If the nation takes the challenge of building public confidence seriously, we must guarantee that those who are most affected by waste management decisions have every opportunity to assess those decisions and make their own independent judgments.

***Treat impacted communities fairly*** We believe it is appropriate for Nye County or any other host community to receive equity offsets for bearing the burden and risks of hosting a repository or an interim storage facility. Regardless of what you believe about the risks of these facilities, they will remain a cloud over the future of a host community for generations.

Congress clearly expected that a community which volunteered for a repository or MRS would receive substantial benefits through a negotiated siting agreement. It seems entirely reasonable to us that a community that neither volunteered for these facilities nor was asked if they are acceptable, should also expect comparable treatment.

***Keep the focus on geologic disposal*** Interim storage should not become a substitute for geologic disposal. It would be morally wrong to leave the ultimate resolution of the nuclear waste problem to future generations that did not create the problem and may not have the means to pay for a solution. Of particular concern to us, of course, is the long-term risk to which Nye County residents would be exposed. We are concerned that H.R. 1020 shifts national priorities away from geologic disposal to interim storage. Given anticipated shortfalls in program funding, it is increasingly likely that the repository will be indefinitely delayed.

***Account for all wastes*** At present, we really don't know the quantity and characteristics of the material that will ultimately be bound for a repository. Nor do we know how much defense high-level waste will ultimately be produced. Greater Than Class C wastes will probably be disposed of in a repository, yet the program has not accounted for these materials at all. We believe a significantly increased dialogue must be initiated with affected parties concerning the actual waste disposal requirements facing this country.

***Ensure adequate program financing*** Our analysis of program finances suggests that the program is under funded by \$9 to 21 billion over its life cycle. This is a very serious concern to us. The implication of a large funding shortfall is that the job will not be completed or will not be done right, and that Nye County will be left with an uncertain and unresolved legacy. Congress must make sure that payments to the Nuclear Waste Fund from ratepayers and from the federal government are adequate to pay for the program over its entire duration, now estimated to extend beyond the next century.

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## PROPOSED PROTECTIONS AND EQUITY OFFSETS NYE COUNTY, NEVADA

The terms Nye County, Nevada proposes in the event that a site within its jurisdiction is designated by the federal government for storage and/or disposal of spent nuclear fuel and high-level nuclear waste.

March 21, 1995

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## NYE COUNTY PROTECTIONS AND EQUITY OFFSETS

### I. INTRODUCTION

Yucca Mountain has been designated by the U.S. Congress as the nation's candidate site for deep geologic disposal of spent nuclear fuel and high-level nuclear waste. Legislation currently before Congress designates the Nevada Test Site adjacent to Yucca Mountain as the location for interim storage of this waste until such time as a repository is licensed and operating.

Nye County, located in the south-central portion of the State of Nevada, exercises jurisdiction over the Nevada Test Site and Yucca Mountain (see **Figure 1**).

In light of the potential for becoming host to a high-level nuclear waste (HLW) storage and/or disposal facility, Nye County has developed a set of specific proposals for protecting the health and safety of its citizens and for offsetting the burdens the community may be expected to assume on the nation's behalf. They are detailed in **Appendix A** of this document and are organized into the following sections:

- |                                       |                                  |
|---------------------------------------|----------------------------------|
| 1. Health and Safety Protections      | 4. Community Development         |
| 2. Future Use of the Nevada Test Site | 5. Entitlements and Compensation |
| 3. Economic Development               |                                  |

The proposals are consistent with the policies and principles specified in the following Nye County documents:

- Principles for a Sound National Nuclear Waste Management Policy (See **Appendix B**)
- Nye County Vision for the Future: A Preliminary Statement for Community Consideration (See **Appendix C**)
- Potential Strategies to Achieve Nye County's Vision of the Future: DOE-Related Federal Facilities Component (See **Appendix D**)
- Nye County Responses to Questions Raised by Senator Frank H. Murkowski, Chairman, U.S. Senate Energy and Natural Resources Committee, March 21, 1995 (See **Appendix E**)

The remaining two sections provide the general rationale for Nye County's pursuit of the types of protections and equity offsets it believes are warranted for being designated a interim storage and/or repository site for HLW.

### II. HEALTH AND SAFETY PROTECTIONS

The most fundamental health and safety protections to be afforded to Nye County residents are those provided by rigorous standards and a national commitment to making licensing decisions based on the site's scientific and technical merits.

Additional health and safety protections sought by Nye County reflect the lessons it has learned in the last decade through the work of its Nuclear Waste Repository Project Office (NWRPO). The NWRPO operates under the authorities and financial assistance afforded it under Section 116(c) of the Nuclear Waste Policy Act (NWPA), as amended. **One key lesson learned by NWRPO is that no other**

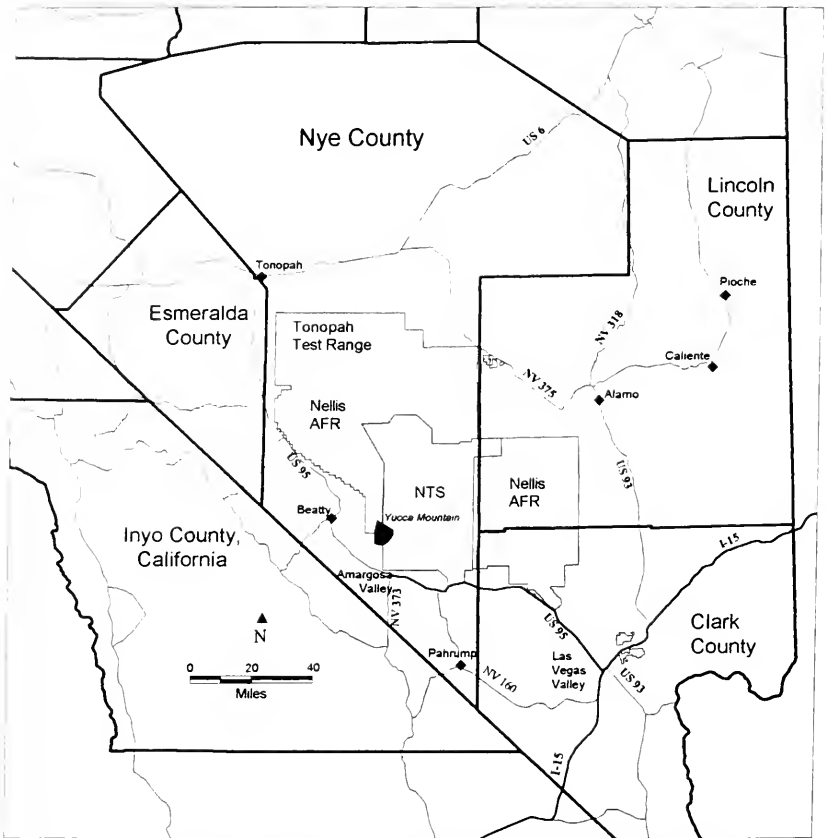


Figure 1. Nye County in Relation to the Nevada Test Site and Yucca Mountain

governmental agency is focused on protecting Nye County citizens in specific. The national and state interests are concerned for protection of the *generic* public, which may or may not include the specific concerns of, for example, Amargosa Valley or Beatty residents.

For example, since they are down gradient from Yucca Mountain, Amargosa Valley residents have had a particular interest in understanding the potential impact of deep geologic storage of nuclear waste on the groundwater from which they draw their domestic supply. Nye County first raised the need to characterize the aquifers in its 1988 comments on the Yucca Mountain Site Characterization Plan. To date, no federal or state agency has pressed for a comprehensive evaluation of the complex groundwater systems upgradient, beneath, or downgradient from Yucca Mountain.

The particular additional protections Nye County seeks can be described as local control, on-site representation, scientific and technical training of Nye residents to assume intergenerational responsibility for facility safety, and emergency response preparedness.

### Local Control

For related reasons, Nye County has concluded that it must be able to exercise some level of control over the management of nuclear waste facilities that may operate in the County. In this, the County draws from the extensive analysis conducted by a community task force organized to evaluate the potential that a site within the City of Oak Ridge would be designated the site for the Monitored Retrievable Storage (MRS) facility. As a condition for accepting the facility, the community called for the ability to shut down the facility if pre-defined performance standards were violated.<sup>1</sup>

As stated by Cameron McRae, the Chairman of the Nye County Commission, in March 2, 1995 testimony to the Senate Energy and Natural Resources Committee:

**Nye County...believes that any new legislation should extend the concept of local oversight to include a degree of local control....**For example...the host should be given authority to issue a stop work order to allow for independent evaluation of a condition that...could present an immediate or serious threat to the community. At a minimum, the host county should be authorized to make formal findings on safety issues and pursue corrective actions.

Commissioner McRae further called for "...a meaningful oversight role that includes substantial pre-decisional input on design and operation of the [interim storage] facility."

The basis for seeking these commitments has been suggested by diverse groups and individuals<sup>2</sup> who have analyzed the problems generated by the lack of public trust in the implementation of the country's

<sup>1</sup> E. Peele, *The MRS Task Force: Economic and Non-Economic Incentives for Local Public Acceptance of a Proposed Nuclear Waste Packaging and Storage Facility*, Waste Management '87, Tucson, AZ.

<sup>2</sup> See, for examples, *Rethinking High-Level Radioactive Waste*, National Research Council's Board on Radioactive Waste Management, National Academy Press, Washington, D.C., 1990; *Burying Uncertainty: Risk and the Case Against Geological Disposal of Nuclear Waste*, K.S. Shrader-Frechette, University of California Press, 1993; Luther Carter, author of *Nuclear Imperatives and Public Trust*, comments in Proceedings of Workshop to Review U.S. Department of Energy's Nuclear Waste Repository Program, Pahrump, Nevada, August, 1993; Michael B. Gerrard, *Whose Backyard, Whose Risk: Fear and Fairness in Toxic and Nuclear Waste Siting*, MIT (1994).

high-level nuclear waste (HLW) management program. Often the analysis calls for "independent technical review" being afforded to the local community. Most fall short of recommending the steps that should be taken to influence facility operations should local technical review identify an unsafe condition or design flaw. Interestingly, the National Research Council's Board on Radioactive Waste has come closest to providing direction when it states: "To the extent that DOE can share power, however, the increased perception of local control is likely to improve acceptance of a repository."<sup>3</sup>

An effectively, albeit indirectly, articulated case for greater local control has been made by the Secretary of Energy Advisory Board (SEAB) when it noted that the public is concerned about the reliability of operating and regulating organizations responsible for hazardous waste systems whose potential toxicity extends across many generations. The report notes, for example, that the quality of both external relations and internal operations should reassure communities of interest and stakeholders that their views will be taken seriously and *that organizational processes will result in immediate adjustment to potential error.*<sup>4</sup>

Todd LaPorte, the Chairman of the SEAB Subcommittee which completed the analysis into public trust and confidence in the management of radioactive waste has subsequently, in a draft paper, elaborated on an important related concept of "institutional constancy". He defines institutional constancy as "...faithful, unswerving adherence to commitments and effective actions over many work generations...."<sup>5</sup>

The combined need to 1) secure an institutional commitment to "adjust to potential error" and 2) ensure institutional constancy in the federal governments commitment to protect host citizens over multiple generations, has led Nye County to call for greater local control. **These characteristics also suggest the need to build an ongoing community capacity through scientific and technical training to monitor and oversee storage and disposal activities across generations.**

#### On-Site Representation

The County has learned another invaluable lesson since passage of the 1987 NWPA amendments, *i.e.*, it is essential that Nye County be able to continue to exercise the oversight authorities and responsibilities currently afforded by an on-site representation program. No amount of monitoring of reports and paper analysis can equate to the insights gained by having a representative in the field as work is conducted. In addition, Nye County now has a track record for how it has utilized this authority to conduct independent studies, including the following:

1. Nye County convened, in cooperation with the other Nevada affected units of government, a scientific roundtable to assess the impact of tunnel boring on DOE's ability to evaluate the significance of gas pathways through Yucca Mountain. Site licensability issues affected by this

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<sup>3</sup> Ibid., National Research Council, 1990.

<sup>4</sup> *Earning Public Trust and Confidence: Requisites for Managing Radioactive Wastes.* Secretary of Energy Advisory Board, Washington, D.C., November, 1993.

<sup>5</sup> Todd R. LaPorte and Ann Keller, *Assuring Institutional Constancy: Requisite for Managing Long-Lived Hazards (Draft)*, Department of Political Science, University of California at Berkeley, November, 1994.

uncertainty, in the County's judgment, include thermal loading, groundwater travel time, and air-borne radionuclides.

2. NWRPO has conducted an independent evaluation of air permeability datasets collected by the U.S. Geologic Survey for the Yucca Mountain Project, the analysis of which is critical to groundwater travel time through the Yucca Mountain unsaturated zone.
3. NWRPO has completed a borehole at Yucca Mountain from which geologic, hydrologic, and air permeability samples have been independently collected and analyzed. Access to samples concurrently split and collected has been afforded to Yucca Mountain Project personnel. The borehole has also demonstrated alternative technologies for dry drilling and for down-hole instrumentation.

These activities, in combination with regular interaction with project personnel and other oversight personnel, along with review of project documents, has provided Nye County with "real time" knowledge of Yucca Mountain-related technical issues.

### III. EQUITY OFFSETS

Nye County employs the term "equity offsets" to encompass management policies and financial arrangements intended to mitigate the impacts of being the nation's mandated host of a high-level nuclear waste storage and/or disposal facility. The principle that host communities should be treated fairly through various forms of mitigatory compensation was first raised nearly thirty years ago by Frank Michelman<sup>6</sup> and again nearly twenty years ago by Michael O'Hare<sup>7</sup>. **In general, the observation has been made that the siting of noxious facilities tends to concentrate costs within an area proximate to the site while providing diffuse benefits over a wide area.** Mitigatory compensation measures are recognized as a tool to distribute more equitably these costs and benefits.

The terms of equity offsets should be specified in any amendment to the Nuclear Waste Policy Act, or through formal agreement with the Secretary of Energy. As noted earlier, the accompanying Appendix A enumerates the protections and equity offsets Nye County believes are warranted for becoming a designated host for high-level nuclear waste storage and/or disposal.

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<sup>6</sup> Frank I. Michelman, *Property, Utility and Fairness: Comments on the Ethical Foundations of Just Compensation Law*, 80 Harvard Law Review, pg. 1165 (1967).

<sup>7</sup> Michael O'Hare, *"Not on My Block You Don't": Facility Siting and the Strategic Importance of Compensation*, Public Policy, pg. 407 (1977).

## Appendix A NYE COUNTY HEALTH AND SAFETY PROTECTIONS AND EQUITY OFFSETS

### Health and Safety Protections

- Monitoring and oversight provisions of Section 116(c) of the Nuclear Waste Policy Act will be extended to include the life of the interim storage or repository facility.
- On-site Representation authority will be extended to include the life of the interim storage or repository facility.
- Pre-decisional input will be afforded on facility design, engineering and construction.
- An interim storage facility will be designed to anticipate contingencies such as the need to inspect or repackage spent fuel in all potential canister types.
- “Stop work” authority will be afforded should conditions exceed predetermined performance standards and until a third party review of the conditions has been completed.
- A repository will be closed only after Nye County review and approval.
- Financial and technical assistance for local emergency responders will be provided, including personnel training and equipment.
- The regional groundwater systems up- and downgradient from, as well as below, Yucca Mountain will be comprehensively characterized.
- An Institute for Community Intergenerational Oversight of Nuclear Facilities will be established to build local capacity to conduct effective oversight for the operating and decommissioning life of nuclear operating plants and waste management facilities.
- Highway 95 improvements will be undertaken, including the widening to four lanes. Other route improvement will be made once final mode and route decisions are completed.
- Pre-decisional review of transportation standards and inspection procedures will be afforded.
- Pre-decisional input on transportation routing, mode, escorts and speed will be afforded.
- A baseline on health conditions and radiological exposure of Nye County residents within the vicinity of Yucca Mountain will be completed and residents will be offered periodic physical exams and preventive medical care at a locally operated medical facility.

### Future Use of the Nevada Test Site

- An international center for research and development on waste management and minimization will be established adjacent to NTS, to investigate such international technological imperatives as identifying a) alternative uses for spent nuclear fuel, b) waste reduction technologies, c) contaminated materials recycling methods, d) robotics applications to hazardous materials handling, and e) human factors engineering.
- NTS will be designated the international center for solar energy research, development, and production.
- High-level nuclear waste management ancillary facilities, including multipurpose canister and cask production and maintenance facilities will be located off-site at Amargosa Valley.
- Facilities that support NTS activities on NTS.
- Surplus facilities, equipment, personnel, technologies will made available for marketing by Nye County to attract new Test Site activities.

- The NTS security perimeter will be moved back to potentially permit alternative uses at Mercury and economic development opportunities near Yucca Mountain.

### **Community Development**

- Nye County medical facilities will provide the medical health services and emergency response capabilities for the NTS and YMP workforce. They will also perform the baseline assessment of health conditions and radiological exposure of Nye County residents within the vicinity of Yucca Mountain. Residents will be offered periodic physical exams and preventive medical care at these locally operated medical facility.
- Scientific, technical and vocational education facilities and distant learning programs will be provided for Nye County students to ensure the availability of a technically competent work force to perform the work and to staff the Nye County oversight agency.
- Intergovernmental agreements between Nye County and DOE will be established for the provision of law enforcement, emergency management, road maintenance, and sewer and water services.
- Transportation infrastructure for the safe transport of nuclear and hazardous waste to Yucca Mountain and/or NTS will also improve the County's transportation rail access and road infrastructure.
- General aviation and heliport air transport network in Nye County will be upgraded to handle "flight-for-life" emergencies at Yucca Mountain and/or NTS, as well as to facilitate the activities of businesses who prefer a rural setting.
- Right-of-way protections will be secured for utilities between Nye County and southern and northern Nevada.
- A telecommunications infrastructure will be built that incorporates satellite, radio-wave, and fiber optic telecommunication innovations and revolutionary video-imaging technology, to ensure that businesses can profitably access a world market while operating out of a rural environment.
- Electrical power to support an interim storage facility and/or YMP will be provided by Valley Electric.

### **Economic Development**

- Bureau of Land Management lands in Amargosa Valley at Lathrop Wells will be secured and funds will be provided to develop off-site industrial parks for businesses desiring to serve new and future federal facility missions.
- Resources will be provided for new business start-up incubator facilities, small business loans, and risk capital.
- Future NTS, Yucca Mountain Project and/or interim storage workforce requirements (associated with existing and new missions) will be defined and training programs will be provided for Nye County residents in anticipation of those demands.
- The management and administrative functions of NTS, YMP and interim storage will be located in Nye County.
- Management policy and incentives will encourage NTS, YMP and interim storage employees to be Nye residents.
- A program will be defined for maximizing the procurement of goods and services from Nye County-based businesses for NTS, YMP and interim storage operations.

- Research and development opportunities related to future NTS, Yucca Mountain Project and/or interim storage will be identified and incentives created for R&D firms to locate within Nye County.
- Information centers (visitor centers, museums, public education facilities) which address technical, cultural and environmental issues related to the area and could serve NTS and YMP needs will be developed.

#### **Entitlements and Compensation**

- Payments-equal-to-taxes will be paid for YMP and interim storage site characterization, construction and operation and for the spent fuel stored or disposed at the site.
- A trust fund will be established to protect future generations who must also bear the burden of nuclear waste stored or disposed of within their community.
- The federal government will assume liability for damages to the County or its residents from an accident at the interim storage facility.
- Property value insurance protection will be provided to Nye County residents along transportation corridors and in the vicinity of Yucca Mountain and/or an interim storage site.



## Appendix B

### PRINCIPLES FOR SOUND NUCLEAR WASTE MANAGEMENT POLICY<sup>1</sup>

Nye County believes the following principles are essential for a sound nuclear waste management policy.

1. ***Put Good Science First.*** Preserving scientific integrity must be the top program priority. Nye County is fully aware of the situation facing the nation's utilities and ratepayers, but we remain concerned that in the rush to solve the spent fuel storage problem, good science is becoming less of a priority than meeting waste acceptance schedules. The program to determine whether Yucca Mountain is suitable for a repository must be viewed first as a scientific enterprise that requires sufficient flexibility to address uncertainties and surprises in the data.

In addition, there is a substantial "institutional momentum" in the waste management program that would make it very difficult to terminate the Yucca Mountain Project if the site is indeed unsuitable. A key way to counter this pressure, in our view, is to ensure that decisions are based on good science and not on political expediency.

2. ***Keep the Focus on Geologic Disposal.*** Interim storage should not become a substitute for geologic disposal. In our view it would be morally wrong to leave the ultimate resolution of the nuclear waste problem to future generations that did not create the problem and may not have the means to pay for a solution. Of particular concern to us, of course, is the long-term risk to which Nye County residents might be exposed.

3. ***Establish Contingency Plans for Deep Geologic Disposal.*** A second key way for the waste management program to become less vulnerable to institutional momentum is to establish a contingency plan that addresses the alternatives to Yucca Mountain should that site not be found suitable for a repository.

4. ***Preserve Strong Oversight Roles.*** If the nation takes the challenge of building public confidence seriously, we must guarantee that those who are most affected by waste management decisions have every opportunity to assess those decisions and make their own independent judgments.

We believe continued strong oversight of the waste management program is vital at the national, state, and local levels. At the national level, this requires preserving the independence and authority of the Nuclear Regulatory Commission (NRC), as well ensuring a strong role for the Nuclear Waste Technical Review Board. Equally important, we believe it is essential that Nye County and the affected units of local government continue to be empowered to participate fully in the program.

5. ***Treat Impacted Communities Fairly.*** We believe it is appropriate for Nye County or any other host community to receive equity offsets for bearing the burden and risks of hosting a repository or an interim storage facility. Regardless of what you believe about the risks of these facilities, they will remain a cloud over the future of a host community for generations. Congress clearly expected that a community which volunteered for a repository or monitored retrievable storage facility would receive substantial benefits through a negotiated siting agreement. This concept is widely supported. It seems entirely

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<sup>1</sup>As adapted from testimony by Cameron McRae, Chairman of the Nye County Board of Commissioners, to the U.S. Senate Energy and Natural Resources Committee, March 2, 1995.

reasonable to us that a community that neither volunteered for these facilities nor was asked if they are acceptable, should also expect comparable treatment.

6        ***Account for All Wastes.*** A comprehensive survey must be done to characterize radioactive wastes that will ultimately require geologic disposal. At present, we really don't know the quantity and characteristics of much of the material that will ultimately be bound for a repository. For example, we do not really know how much defense high-level waste will ultimately be produced. In addition, Greater Than Class C (GTCC) wastes will probably be disposed of in a repository, yet the program has not accounted for these materials at all. We believe a significantly expanded dialogue must be initiated with affected parties on the actual waste disposal requirements facing this country.

7        ***Minimize Future Waste.*** The nation must establish radioactive waste reduction goals to reduce the waste required for disposal. One strategy must be to conduct research and development into technologies that will result in a downward waste generation curve.

8        ***Ensure Adequate Program Financing.*** We need a much more up-to-date accounting of the true costs of managing the nation's nuclear wastes over the long-term. Nye County's own detailed analysis suggests that the program is underfunded by \$9 to \$21 billion over its life cycle. This is a very serious concern to us. The implication of a large shortfall in program funding is that the job will not be completed or will not be done right, and that Nye County will be left with an uncertain and unresolved legacy. Congress must make sure that payments to the Nuclear Waste Fund from ratepayers and from the federal government are adequate to pay for the program over its entire duration beyond the next century.

## Appendix C

### NYE COUNTY VISION FOR THE FUTURE

Nye County has a rich and colorful history. Spawned in the Old West era of hard-rock mining, homesteading and ranching, the County's economy has expanded into oil production and tourism. Nye has made significant contributions to the Nation's Cold War success as the host to major National weapons technology research and development facilities. Unfortunately, these activities have been only very minor contributors to the County's economy. As for its future, Nye population growth will continue and a more stable and diverse economic base will be secured -- fueled by a combination of quality of life characteristics, proximity to other more urban communities such as Reno, Bishop and Las Vegas, and more aggressive efforts to attract spin-off benefits from the continued operation of federal facilities.

The towns of Amargosa Valley, Beatty, Pahrump, and Tonopah are beads strung together by Routes 160 and 95. The communities of Gabbs, Carver, and Duckwater are less interconnected by transportation routes. Nye County communities have been sufficiently isolated from one another to allow for each to develop their own economic base and lifestyle characteristics. As a corollary, however, time and distance from one another has constrained their ability to work together on issues that would be of common value to all.

Where it has historically been viewed as a huge tract of sparsely populated Basin-and-Range desert -- to be passed through or over -- between the urban centers of Reno and Las Vegas, Nye will become recognized as adding significant value to the State's economy while maintaining its predominantly rural character. On one hand, Pahrump appears to be on a nearly relentless course toward a becoming a mid-sized population center, perhaps with enhanced urban-type commercial business and community infrastructure. On the other hand, while Amargosa Valley, Beatty, Tonopah and other County population centers appear poised to grow, they will do so at a less intense rate. Natural constraints, coupled with community desires, will ensure that while the County will continue to experience the growth to sustain a viable economy, it will overall be able to maintain its essentially rural character.

Economic growth will be accomplished by traditional techniques such as the siting of industrial and office parks, development of incubator facilities, and providing access to risk and venture capital. In addition, Nye will ensure that general aviation transportation will be easily accessible, modern roads will connect the north and south borders to the national interstate system, utility services will be available, and rail lines will provide direct access to national and international markets.

Beyond the traditional, however, the following strategy will become the key to strengthening Nye's economic base and improving its residents' overall quality of life. The County will:

1. Leverage the procurement and workforce attributes of federal activities to help build and diversify the local economy.
2. Acknowledge the *de facto* designation of Nye County as a national center for hazardous and nuclear materials storage and disposition, leverage the national interest in solving some of its complex waste management problems and secure equity offsets founded upon principles of environmental justice and protection of human life and the ecosystem.

3. Become the international center for research and development on waste management and minimization, including such international technological imperatives as identifying a) alternative uses for spent nuclear fuel, b) waste reduction technologies, c) contaminated materials recycling methods, d) robotics applications to hazardous materials handling, and e) human factors engineering.
4. Secure the designated authorities through federal statute and the necessary resources to maintain a technical monitoring and oversight capability, coupled with sufficient regulatory authority, to assure Nye County residents that their health and safety, and that of future generations, is not jeopardized.
5. Ensure that right-of-way protections are in place to maintain a utilities and transportation corridor between Nye County and national markets for goods and services, particularly those in the growing Southwest.
6. Become the international center for solar energy research, development, and production.
7. Build a telecommunications infrastructure that incorporates satellite, radio-wave, and fiber optic telecommunication innovations and revolutionary video-imaging technology, to ensure that the cutting-edge entrepreneur can profitably access a world market while operating out of a rural environment.

In addition, the technology will collapse distances between Nye communities and provide County youth direct and personal access to the rich educational and information resources that have historically been concentrated in areas with greater population density -- thereby ensuring that Nye's future labor pool can support private sector enterprises that range from basic production operations to high-tech, information-age, innovations.

8. Secure payments-equal-to-taxes and apply revenue toward meeting growing requirements for public services infrastructure and health care.

The community will, in short, not leave behind the more unfettered lifestyle of its Old West heritage and its rural character and will seek to ensure that individual initiative continues to be rewarded. The County will, however, accomplish this objective by leveraging its status as a *de facto* waste storage and disposal site to secure necessary health and safety commitments and opportunities to put in place cutting edge, 21st century technology initiatives.

A key distinction between its earlier era and the future will be that the miner, the rancher, and the land developer will be joined by other entrepreneurial enterprises. In so doing, Nye County will become a national model for rural development.

**Appendix D**  
**STRATEGIES TO ACHIEVE NYE COUNTY'S VISION FOR THE FUTURE:**  
**DOE-RELATED FEDERAL FACILITIES COMPONENT**

**PURPOSE:** This document is a window through which to view Nye County's evolving strategic thinking as it considers its future in relation to the Federal facilities that have, and will forever, dominate its geography. Background information will be generic to Department of Energy and U.S. Air Force operations in Nye County, but only initiatives specific to DOE operations in Nye County will be discussed in this piece.

A key County initiative over the ensuing months and years will be to bring about a fundamental shift in the mindset of Federal officials and support contractors toward Nye County; *i.e.*, Nye County will not only be the host of field activities *but will also be a field office management location*. In addition, Nye County envisions the elimination of historical transportation, lodging and meal subsidies, union hall location, as well as ingrained procurement practices and relationships, that have become significant barriers to attracting personnel and business to Nye County.

**BACKGROUND:** Three major Federal operations are located and operated within the County's geographic boundaries. These three are:

- Nevada Test Site (NTS),
- Yucca Mountain Site Characterization (YM)
- Nellis Air Force Base/the Tonopah Test Range (Nellis/TTR)

Nye County's desired relationship with these Federal facilities is an element in a still-evolving Nye County strategic plan for economic and community development. **Fundamentally, Nye will pursue a major realignment in the relationship between Federal programs operating in the County and Nye County itself.**

Nye has been historically a low population-density auxiliary testing and training location for the conduct of hazardous Federal programs, **remotely operated out of Las Vegas**. The attitude of Federal and State of Nevada officials toward the host County of Nye is best exemplified by the use of subsidized man-camps and daily air flights and bus trips to and away from Nye, and by a four lane highway from Las Vegas that ends at Mercury, the operations center for NTS.

The Federal government is going through a period of significant retrenchment and restructuring. Federal managers and employees are being required to evaluate past practices and to institute fundamental change in the manner in which they have conducted business. With the pressures of the Cold war now relieved, inefficient and expedient practices must give way to new approaches that are well-thought out and strategically productive.

Nye County is also going through significant change, predominantly driven by population growth and heightened community expectations for quality-of-life enhancements.

**Nye County believes that, in light of these dramatically changing times for the Federal agencies and for Nye County, now is the time to redefine Federal facilities relations with their host community.**

The fundamental principal that will guide Nye's economic and community development initiatives will be to **maintain the County's rural lifestyle while enhancing its overall quality-of-life**. The key strategy will be to leverage Federal activities residing within the County to accomplish the following:

1. Broaden and deepen its revenue base from which it can meet growing fiscal demands.
2. Provide increased employment for County residents.
3. Expand opportunities for local businesses.
4. Encourage new business and entrepreneurial investment.
5. Become a national model for rural development by virtue of its telecommunication, radio-wave, and video-imaging technology infrastructure.

As a result of becoming the nation's *de facto* storage site for radioactive and hazardous waste, Nye County expects to secure unique monitoring and regulatory authority so that it maintains first-hand and direct authority to influence factors that may pose risks to residents' health and safety.

**STRATEGIC DOE-RELATED FEDERAL FACILITIES INITIATIVES:** Nye County's strategic initiatives have been designed, to date, with three imperatives in mind:

1. Nye County must be able to demonstrate to its citizens, and even the broader State population, that **protecting the public's health and safety and the environment is the County's highest priority**. The County must further develop its technical monitoring and oversight competence, as well as strengthen its emergency management capability.
2. **A viable alternative NTS mission and economic activity must be identified in the short term**, even if modest in scale, to reinforce the perception that it can remain a vital national asset. The solar energy project, stockpile stewardship and weapons dismantlement appear to have this potential.
3. **Nye County must act now to challenge historical assumptions regarding its relations with Federal facilities**. In particular, it must take advantage of a) the uncertainty of NTS's future and b) the naming of a new M&O contractor to define an alternative host county relationship to DOE's Nevada Operations Office and its prospective new single M&O contractor.

The non-health and safety NTS-related initiatives to be pursued by Nye County can be organized into the following categories:

- Future Use of the Test Site
- Economic Development
- Community Development

#### Future Use

The Federal facilities located in Nye County provide a unique resource for the nation. Such an immense land area could not be acquired under the current political and environmental climate, and the facilities and sophisticated equipment could only be replaced at great cost. These facilities will continue to be prime candidates for federal programs which require secure land areas remote from large population centers. **Nye County's goal to be an active participant in the planning process for new activities on federal facilities within the County.**

The following initiatives will be undertaken to support this goal:

- Identify facilities, equipment, personnel, technologies and Nye County resources which might support new activities for federal facilities.
- Develop off-site facilities at Lathrop Wells to support complementary activities on NTS.
- Evaluate the opportunities and utility for moving-back the security perimeter to permit alternative use and economic development opportunities.
- Incorporate potential new activities for federal facilities into Nye County comprehensive planning and economic development efforts.

### **Economic Development**

Federal operations in Nye County should be leveraged to increase the business and employment base, but also to help diversify the overall economic base. The possible initiatives to accomplish this task range from the traditional to the state-of-the-art, and include the following:

- Secure NTS M&O commitment to Nye County economic development and willingness to engage in partnership arrangements to facilitate success.
- Secure the Federal commitment to fund a rural development model that incorporates the availability of information transmission and video-imaging technology into its utility infrastructure.
- Maintain current Nye County initiatives to provide business support services to enterprises interested in providing support work to DOE operations.
- Develop incubator facilities, sources of business loans, and sources of risk capital to promote new business start-ups.
- Identify future NTS and YMP workforce requirements for existing and new missions and establish training programs for Nye County residents in anticipation of those demands.
- Identify research and development opportunities related to NTS and YMP and create incentives for R&D firms to locate within Nye County.
- Plan, fund and develop off-site industrial parks in Nye County to provide facilities for businesses desiring to serve new and future federal facility missions.
- Develop information facilities (visitor centers, museums, public education facilities which serve NTS and YMP needs and attract visitors and travelers.
- Identify incentives to attract new NTS activity support businesses and employees to Nye County communities.

### Community Development

Key elements to successfully building a diversified business and residential base are the availability of basic services, a quality education system, and a good overall quality of life. Nye County aspires to engage in the kinds of community development activities that will attract new residents and business, while maintaining the attributes of a rural lifestyle. Initiatives to be undertaken include:

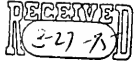
- Leverage the medical health needs of the NTS and YMP workforce to improve the overall health services offered to Nye County residents.
- Develop higher education facilities and distant learning programs for Nye County students to ensure the availability of a technically competent work force.
- Develop intergovernmental agreements with DOE for the provision of law enforcement, emergency management, road maintenance, and sewer and water services. Leverage these services to enhance the County's ability to provide improved utility services to County residents.
- Leverage the requirements for transporting nuclear and hazardous waste to NTS to improve the County's transportation rail access and road infrastructure.
- Establish a private general aviation and heliport air transport network in Nye County to facilitate the activities of businesses who prefer a rural setting.



**Appendix E**

**RESPONSES TO QUESTIONS RAISED BY  
SENATOR FRANK H. MURKOWSKI, CHAIRMAN  
U.S. SENATE ENERGY AND NATURAL RESOURCES COMMITTEE**

March 21, 1995



March 21, 1995

The Honorable Frank H. Murkowski, Chairman  
Committee on Energy and Natural Resources  
United States Senate  
Washington, D.C. 20510

Re: Responses to March 9, 1995 Letter Requesting Follow-up Responses to Nye  
County's March 2, 1995 Testimony to the Committee

Dear Senator Murkowski:

Thank you for the opportunity you afforded Nye County to testify at your March 2, 1995 hearing on legislation to amend the Nuclear Waste Policy Act.

Enclosed, please find the responses to the questions you raised in your March 9, 1995 letter. Should you or your staff desire to follow-up further, please do not hesitate to call me at (702) 727-7209 or the County Manager at (702) 482-8191.

Sincerely,

Cameron L. McRae, Chairman  
Board of County Commissioners

Enclosures (4)

# **RESPONSE TO QUESTION #1 FROM SENATOR MURKOWSKI**

**IS THE LEVEL OF SCIENTIFIC CERTAINTY THAT WOULD ALLOW THE NRC TO ISSUE A LICENSE TO A FACILITY MAKE THE RESIDENTS OF NYE COUNTY COMFORTABLE WITH A REPOSITORY OR A TEMPORARY STORAGE FACILITY?**

As a potentially designated host, Nye County is keenly interested in the health, safety and general impacts a high -level nuclear waste facility could have for its residents. Nye County could be satisfied that a repository or an interim storage facility licensed by the NRC would be safe under the following conditions:

1. The process leading to that decision is open.
2. The County is able through Section 116(c) authority, on-site representation and financial assistance to participate in that process fully and completely.
3. Nye County's position on the scientific and technical issues is given a fair hearing by an impartial licensing board.
4. The decision is based on sound, quality assured scientific and technical information.
5. Adequate site characterization data is available to the licensing board and its decision is not overly reliant on models and expert judgment to fill in gaps in hard information.
6. The licensing standards supporting the decision to license rigorously protect the public's health, safety and general welfare.

The County's participation to date has given us confidence that the Nuclear Regulatory Commission (NRC) has approached its ultimate licensing responsibility in a responsible manner that is technically and scientifically sound. We are concerned, however, that, in the rush to move the waste management program forward, the NRC's independence and its licensing process will be compromised in order to meet unrealistic and unsound deadlines.

Further, we believe that performance standards for high-level nuclear waste management facilities should not be lessened unless proven impractical. The burden of proof should be on DOE to demonstrate the need to change and not just on the regulators to defend why their standard is practical and not overly stringent. In any case, if standards are to be changed, the potentially affected public should be provided the opportunity to meaningfully review and be able to influence the final standard.

## RESPONSE TO QUESTION #2 FROM SENATOR MURKOWSKI

YOUR TESTIMONY INDICATES THAT YOU WOULD LIKE MORE LOCAL CONTROL OVER THE PROJECT. WHY WOULD THIS NOT BE JUST ANOTHER LEVEL OF BARRIERS TO FRUSTRATE THE PROJECT?

Nye County has never taken a position in support of, or in opposition to, the repository program. Our recent testimony to the Senate Energy and Natural Resources Committee intentionally and carefully neutral on the acceptability of interim storage at Yucca Mountain, as well. To voice a position one way or another, at this juncture, would serve to bring into dispute the County's motives. Senator Murkowski's question implies, for example, that a basis for Nye County exercising local oversight and control would be to thwart the project's success. A position in opposition to the project could invite this conclusion. Similarly, a position in support of the project could bring into question the objectivity of our independent scientific investigations.

Nye County seeks greater local control in two areas:

- Pre-decisional input into facility design and operating procedures of an interim storage facility and a repository
- The opportunity to engage in on-going monitoring and oversight of facility construction and operations to ensure that safety measures are fully engaged and if certain pre-defined standards are exceeded, the County can bring in an independent perspective should DOE and the County disagree.

We know that all human activities and engineered solutions are subject to error. Redundant systems in reactor designs account for this reality. We also know that fiduciary and schedule pressures can exert enormous pressure to cut corners. While the probability of a significant problem is remote for an interim storage facility, for example, the consequences of error could, in some instances, be devastating. Recently, for example, a basket for storing spent fuel in a dry storage cask at the Palisades, Michigan reactor site was found to have a crack. This was not anticipated and, had it not been detected, could have led to more serious problems in the long run.

Perhaps Nye County's best response to the question, however, is to review the County's past performance in conducting its monitoring, oversight and on-site representation responsibilities. The key points to make in this regard are as follows:

- Nye County has, over the past four years, been engaged in formal interactions with DOE's Office of Civilian Radioactive Waste Management, resulting in an agreement on a Framework for Formal Interactions, as well as protocol agreements entitled a) Principles and Procedures for Interactions, b) Socioeconomic Monitoring and Assessment, and c) On-site Representation. This later protocol is modeled after a similar agreement between the NRC and DOE. Formal interactions continue to take place on a quarterly basis.
- Nye County has organized three workshops, in sponsorship with the affected units of local government, entitled a) *A Review of the U.S. Department of Energy's Nuclear Waste Program* (August, 1993), b) *A Scientific Roundtable on Yucca Mountain Pneumatic Continuity: Progressing from Conceptual Models of Gas Circulation in the Vadose Zone to Confident Characterization* (January, 1994), and c) *A Multi-Purpose Canister Workshop: Preparing for Environmental Impact Statement Scoping by the U.S. Department of Energy*.

- An evaluation conducted by Nye County using independent expertise, has raised serious concerns about the efficacy of air permeability data collected by the U.S. Geologic Survey (USGS) on behalf of the Yucca Mountain Project (YMP). These concerns have been formally conveyed to DOE in a written technical report and have been reviewed with USGS and YMP personnel. The written report has now been conveyed to the Nuclear Regulatory Commission and the Nuclear Waste Technical Review Board for their technical review.
- Under the auspices of its On-Site Representation Program, Nye County has successfully completed and instrumented a borehole at Yucca Mountain and has instrumented a hole previously bored by YMP. These activities were undertaken in coordination with YMP. They have resulted in Nye County collecting independent data on geologic, hydrologic and gaseous characteristics of Yucca Mountain. Some preliminary findings have been significant. In addition, DOE has had access to splits of rock cuttings and water samples. All data secured through Nye County instrumentation is being shared with YMP as well.

In short, had Nye County's purpose in conducting its oversight program been to embarrass or frustrate YMP, the evidence of this motive would have become apparent by now.

As a concluding note, we have observed many delays in DOE's progress over the years. We acknowledge that the regulatory and oversight regime under which YMP operates adds burdens to an already complex project. However, laying the primary responsibility for project delays at the feet of the oversight community, or even the project opponents, would be, in our judgment, misplaced. The most costly time and schedule impacts, such as having an inadequate quality assurance program, or more recently, tunnel boring machine-related procurement problems, have been of DOE's own doing.

## RESPONSE TO QUESTION #3 FROM SENATOR MURKOWSKI

YOU SPEAK OF BENEFITS THAT WOULD BE OBTAINED THROUGH A NEGOTIATED SITING AGREEMENT DO YOU HAVE SPECIFIC TYPES OF BENEFITS IN MIND?

Nye County has given considerable thought to this issue and has conducted extensive research into the concept of compensation packages to offset distributional inequities resulting when the "[s]iting of noxious facilities tends to concentrate costs within an area proximate to the site while providing diffuse benefits over a wide area."<sup>1</sup> The County has, for example, reviewed materials used by the Nuclear Waste Negotiator to market a monitored retrievable storage (MRS) facility in the past few years. The County has also reviewed the terms approved by the Clinch River Task Force and the City of Oak Ridge that offered conditional acceptance of an MRS prior to the site being eliminated when the Nuclear Waste Policy was amended in 1987.

The study's findings are reported in the accompanying document entitled, *Proposed Nye County Protections and Equity Offsets*. This document lists the terms Nye County proposes in the event that a site within its jurisdiction is designated for storage and/or disposal of spent nuclear fuel and high-level nuclear waste.

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<sup>1</sup> David Morell and Christopher Magonian, *Siting Hazardous Waste Facilities: Local Opposition and the Myth of Preemption* (1982)

## SITING RAIL, CASK MAINTANENCE AND SUPPORT FACILITIES IN NYE COUNTY, NEVADA

### OVERVIEW

H.R. 1020 will potentially designate a rail corridor in Nevada from the City of Caliente in Lincoln County, terminating at an interim storage facility in Area 25 of the Nevada Test Site (NTS) in Nye County. Section 202 of the bill grants the Secretary of Energy the authority to construct and operate the railroad and the facilities necessary to transport spent nuclear fuel and high level radioactive waste to NTS. In order to plan for the construction of the rail corridor and facilities, the Department of Energy (DOE) wrote a conceptual design report titled "Yucca Mountain Rail Access Study, Caliente Route." Subsequent to review of the report, Nye County officials have concluded that the County would be a suitable location for many of the required rail facilities and has the capability to assimilate them.

### RAIL-RELATED OFF-SITE FACILITY CONSTRUCTION AND OPERATION

Placement of rail facilities in Nye County would be both economically and logistically feasible. All of the following facilities provide the basic infrastructure requirements needed to commence rail service to the Nevada Test Site.

- Cask production and maintenance facilities. Cask production and maintenance facilities will be needed to support the hundreds of shipping campaigns to NTS or Yucca Mountain that can be anticipated.
- Locomotive servicing facility -- At this facility, locomotives would receive minor repairs and be inspected, fueled and cleaned. Potable water would be provided for the crew.
- Locomotive and rail car shop combination -- Separate, but adjacent rail facilities would accommodate the repair and inspection of at least two locomotives, and storage of a third locomotive for major repairs and scheduled inspections. An adjacent facility would be used to service rail cars.
- Garages and Warehouses -- The garage is used to store Hi-Rail vehicles (a vehicle equipped to drive on the highway and the rail line for servicing the rail, locomotives and cars) and trucks. The garage and storage area would be located near the servicing facilities.
- Train dispatchers office -- A 24 hour office where movements of trains and equipment will be controlled. The dispatchers office and the crew station would be in the same facility.
- Crew Station -- Jointly located with the train dispatchers office, this facility would have a train and engine crew ready room where the crew will prepare for transport assignments.
- Headquarters for Operating Personnel -- Headquarters would contain offices for administrators for track, engine, safety, and environmental operations.

- Emergency station -- This facility would include fire, ambulance, first aid and communications services.
- Hi-Rail pad -- The Hi-Rail pad (Highway-Railroad vehicle pad) should be located at the intersection of a highway and the rail line in Nye County. This would enable Hi-Rail vehicles to be driven from the highway onto the track and be made rail mobile.
- Heliport -- The paved area for Hi-Rail vehicles can also be expanded to serve as a heliport.
- Emergency material storage track and emergency equipment track -- Separate tracks are needed for rail cars loaded with ballast, rail ties, rock and rail, as well as equipment such as cranes, tie removers and inserters, and snow plows.
- Turning tracks and wyes -- Emergency conditions sometimes require locomotives and other rail equipment to be turned. Turning tracks can be designed as loops or as wyes (Y shaped turning tracks).

#### OTHER OFF-SITE FACILITY CONSTRUCTION IN NYE COUNTY:

In addition to rail-related services, Nye County envisions that other support facilities will be needed to service the other elements of the waste management system operating in the vicinity of NTS. These facilities could be operated by Nye County and include the following:

- Medical facilities for rail employees as well as County residents
- Emergency response capabilities
- Telecommunications infrastructure incorporating satellite, radio-wave, and fiber-optic telecommunications innovations and revolutionary video imaging technology for rail related transport and other business interests.
- Upgraded general aviation and heliport air transport facilities to handle "flight-for-life" emergencies at NTS or Yucca Mountain, and for other business purposes.
- Information centers (visitor centers, museums, public education facilities) that address technical, cultural and environmental issues related to the transport of spent nuclear fuel.

#### CONCLUSION

The transport of spent nuclear fuel to the Nevada Test Site could have positive economic impacts for Nye County. Nye County is a geographically suitable location for facilities needed to service spent nuclear fuel rail equipment and personnel at the Nevada Test Site. Along with the construction of these facilities, Nye County will also need to be able to provide off-site services. Nye County can be positioned to accommodate all of these facility needs. Congress should direct that DOE pursue such initiatives in Nye County.



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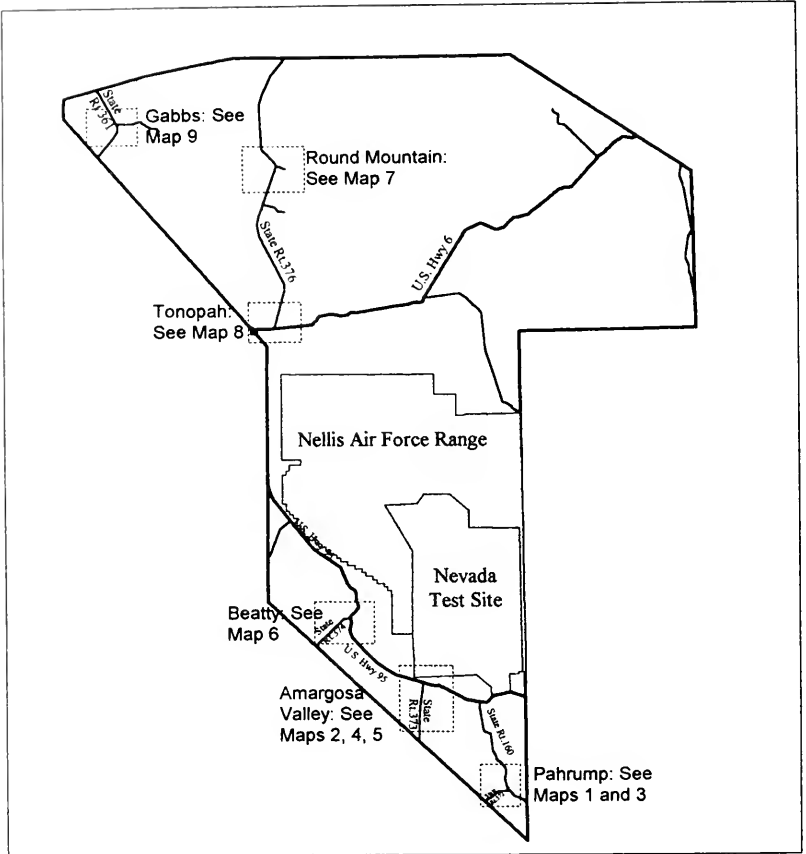
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- Information centers (visitor centers, museums, public education facilities) that address technical, cultural and environmental issues related to the transport of spent nuclear fuel.

#### CONCLUSION

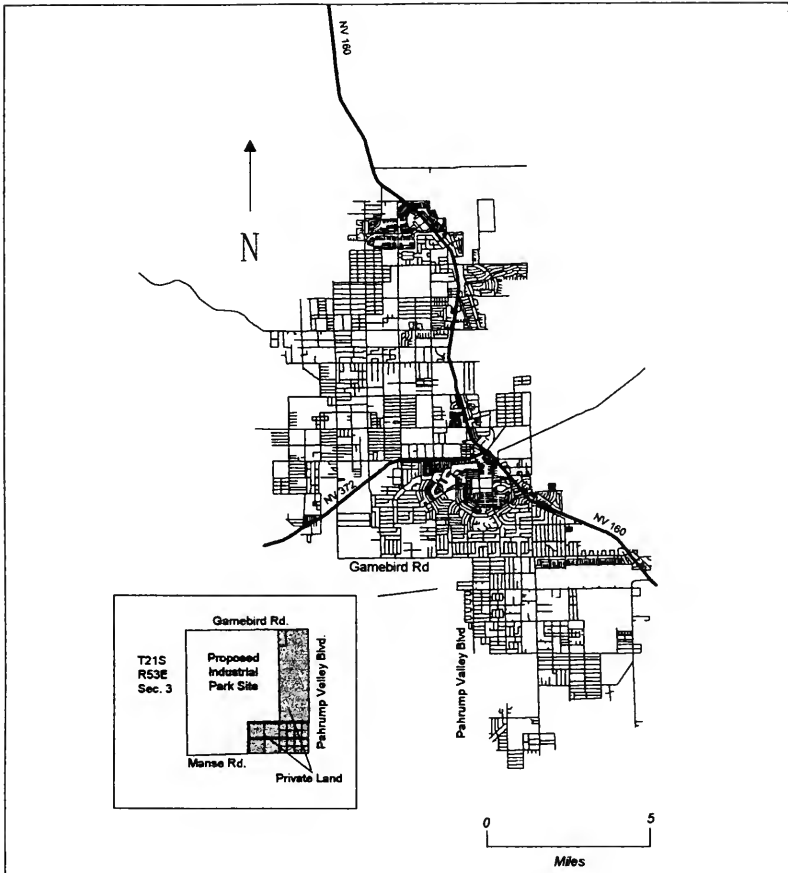
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**PUBLIC LANDS OF INTEREST  
NYE COUNTY, NEVADA**

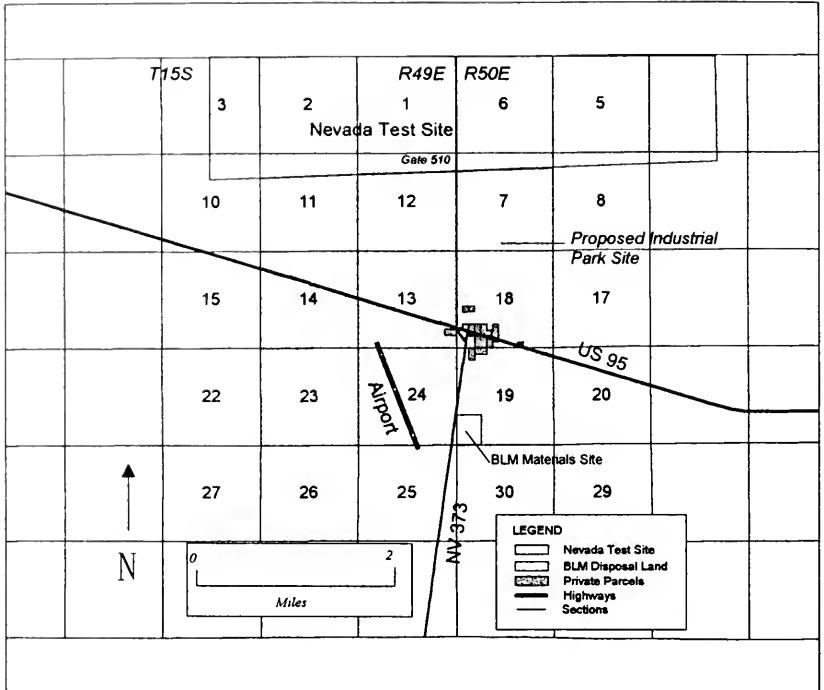
**October 11, 1995**



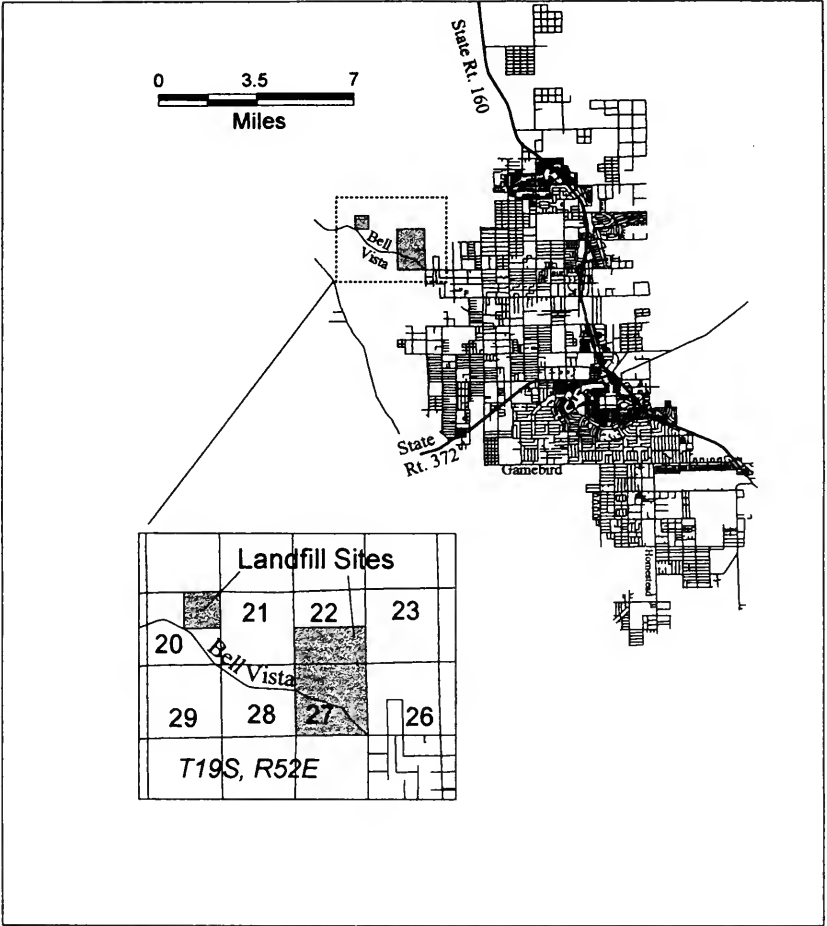
Index Map: Nye County, Showing Map Inset Areas



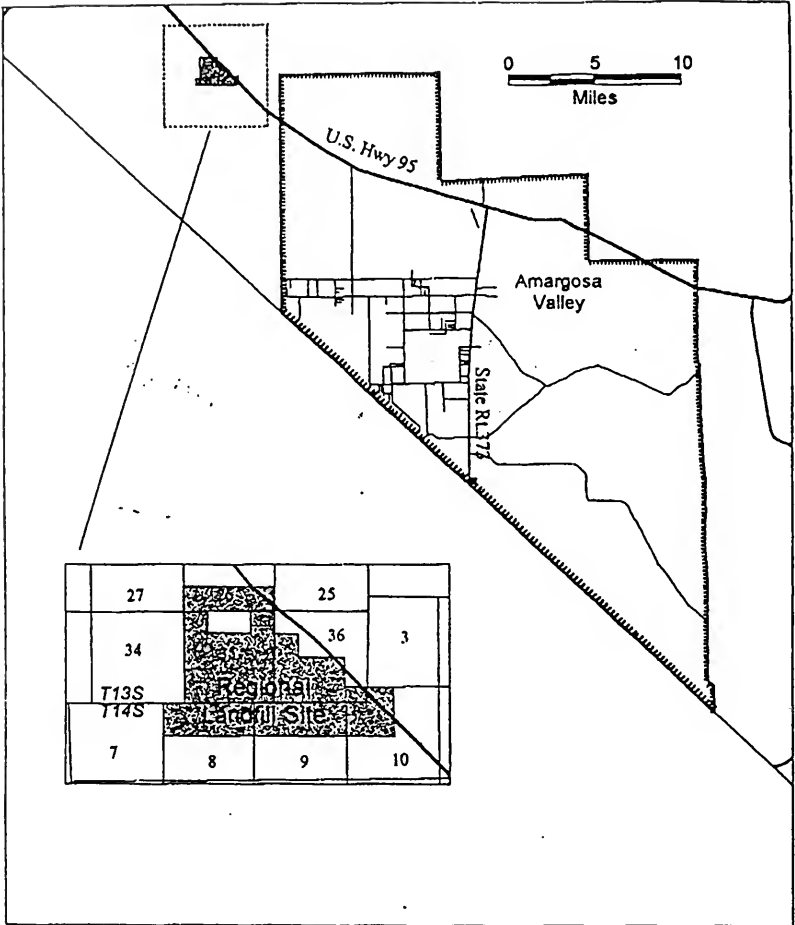
Map 1: Proposed Pahrump Industrial Park Site



Map 2: Proposed Lathrop Wells (Gate 510) Industrial Park Site



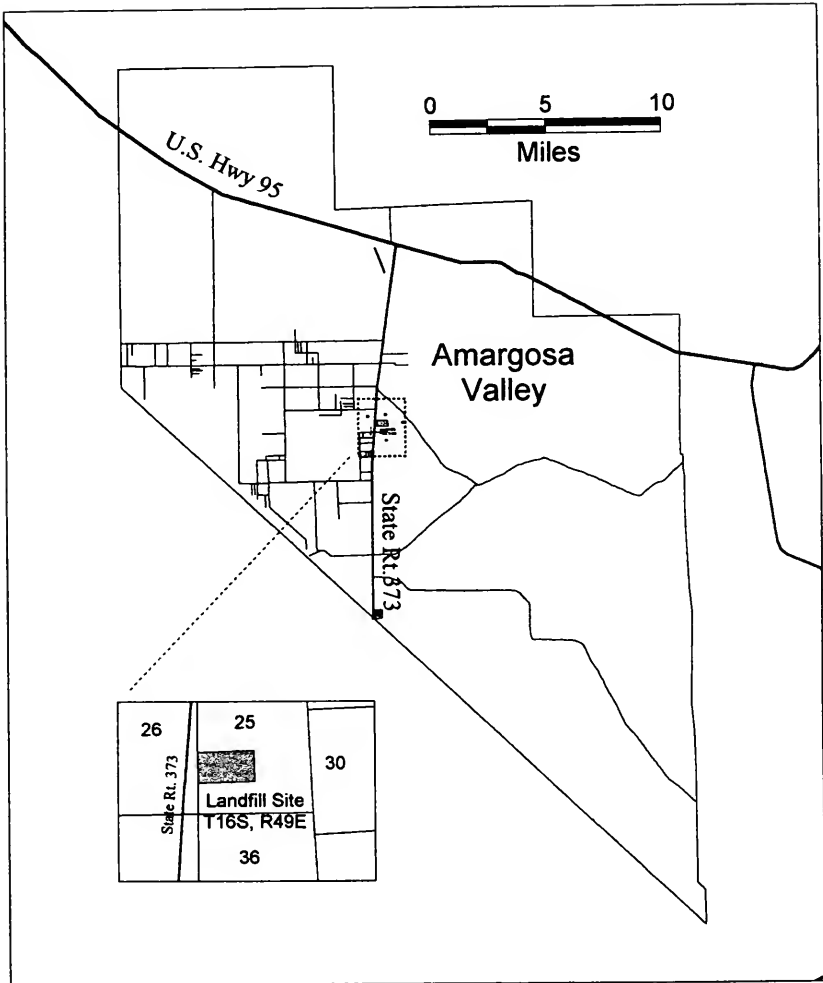
Map 3: Pahrump Landfill Sites



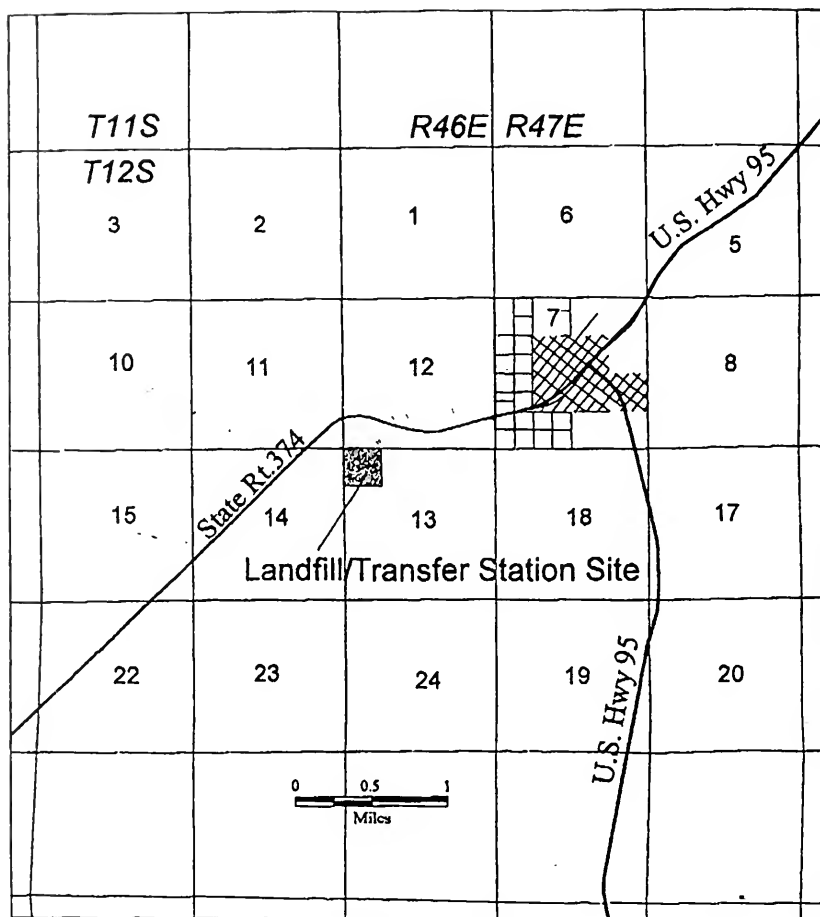
Map 4: Amargosa Valley Regional Landfill Site

October 11, 1995



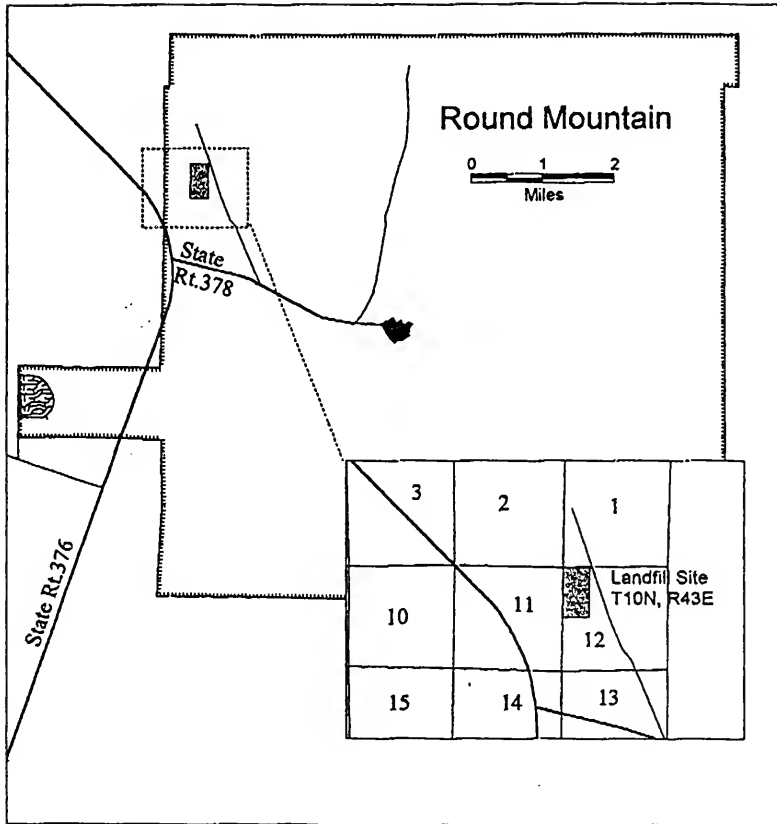


Map 5: Amargosa Valley Municipal Landfill Site



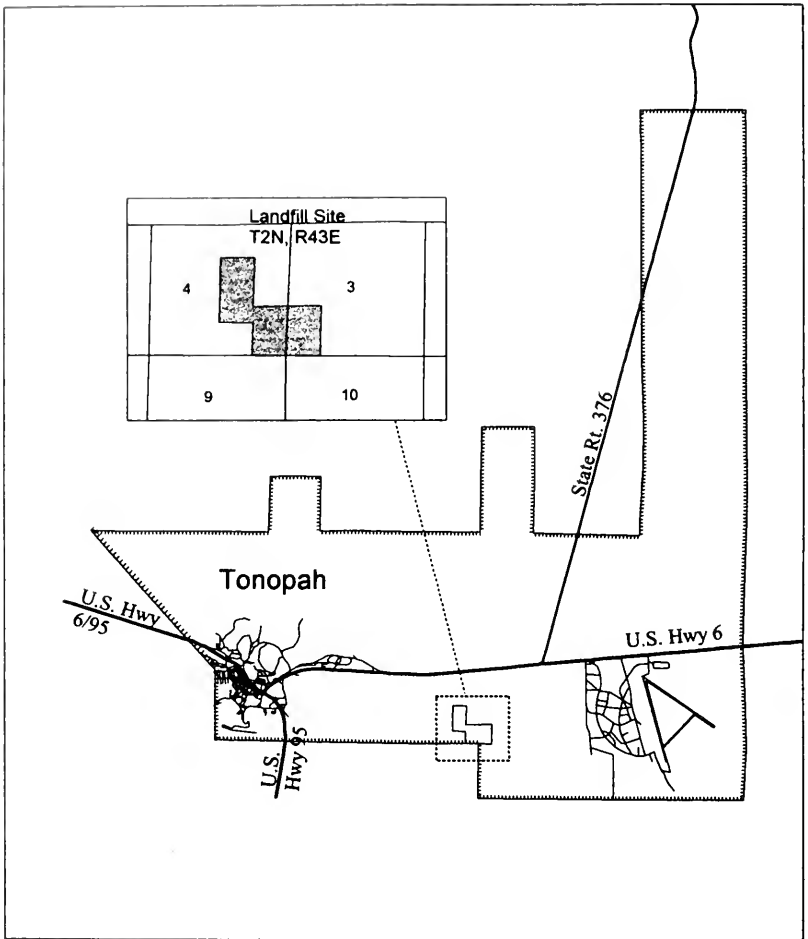
Map 6: Beatty Landfill/Transfer Station Site

October 11, 1995

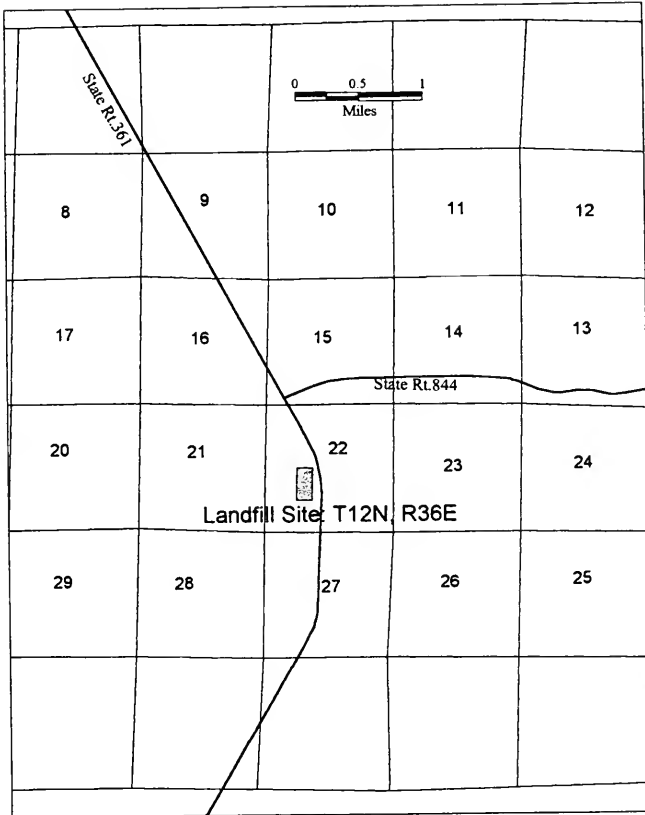


Map 7: Round Mountain Landfill Site

October 11, 1995



Map 8: Tonopah Landfill Site



Map 9: Gabbs Landfill Site

**TESTIMONY OF EDWARD E. WRIGHT  
CHAIRMAN, BOARD OF LINCOLN COUNTY COMMISSIONERS  
PERTAINING TO HR 1020**

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS ED WRIGHT AND I AM CHAIRMAN OF THE BOARD OF LINCOLN COUNTY COMMISSIONERS. AT THE OUTSET, I WOULD LIKE TO THANK YOU FOR REQUESTING INPUT FROM LINCOLN COUNTY REGARDING HR 1020. AS MY TESTIMONY WILL REVEAL, THE COUNTY HAS SPENT THE PAST TEN YEARS CLOSELY EVALUATING DEPARTMENT OF ENERGY RADIOACTIVE WASTE MANAGEMENT PROPOSALS FOR NEVADA. OUR MANY YEARS OF EXPERIENCE WITH THIS ISSUE HAS LED TO THE FORMULATION OF THE VIEWS AND RECOMMENDATIONS WHICH I WILL EXPRESS TODAY. I AM CONVINCED THAT ADOPTION OF AMENDMENTS TO HR 1020 PROPOSED AND/OR SUPPORTED BY LINCOLN COUNTY WILL HELP TO ENSURE THAT THE MANAGEMENT OF SPENT NUCLEAR FUEL IN NEVADA IS DONE IN A MANNER WHICH MINIMIZES RISKS AND MAXIMIZES BENEFITS.

MY REMARKS TODAY ARE PREMISED UPON THE ASSUMPTION THAT THE UNITED STATES WILL TRANSPORT INTO AND STORE SPENT NUCLEAR FUEL WITHIN NEVADA BEGINNING SOON AFTER JANUARY 1, 1998. THE BOARD OF LINCOLN COUNTY COMMISSIONERS BELIEVE THIS ASSUMPTION TO BE VALID AND HAVE, IN ACCORDANCE WITH SECTION 116(C) OF THE NUCLEAR WASTE POLICY ACT, AS AMENDED, INITIATED CONTINGENCY PLANNING ACTIVITIES. THESE ACTIVITIES INCLUDED ADOPTION OF JOINT RESOLUTION 2-95 WHICH CONTAINED 16 RECOMMENDATIONS TO THE SECRETARY OF ENERGY REGARDING METHODS TO MINIMIZE RISK AND MAXIMIZE BENEFITS. IN RESPONSE TO THE COMMISSION'S ADOPTION OF JR 2-95, THE NEVADA ATTORNEY GENERAL FILED A LAWSUIT TO REMOVE COMMISSIONER CULVERWELL AND MYSELF FROM OFFICE. FOLLOWING

SEVEN MONTHS OF PERSEVERANCE ON OUR PARTS, THE ATTORNEY GENERAL RECENTLY AGREED TO DROP HER LAWSUITS. I SIT BEFORE YOU TODAY EMANCIPATED, HAVE REAFFIRMED THE RIGHT OF ALL REPRESENTATIVES OF LOCAL GOVERNMENT IN NEVADA TO PETITION THE CONGRESS FOR CHANGES WHICH WILL PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE OF THEIR CONSTITUENTS.

ONCE PASSED BY THE CONGRESS AND SIGNED BY THE PRESIDENT, HR 1020 WILL RESULT IN MOST IF NOT ALL SHIPMENTS OF NUCLEAR FUEL AND OTHER HIGH-LEVEL RADIOACTIVE WASTE DESTINED FOR THE NEVADA TEST SITE (NTS) PASSING THROUGH LINCOLN COUNTY INITIALLY, SHIPMENTS WILL BE BROUGHT THROUGH LINCOLN COUNTY TO THE CITY OF CALIENTE BY RAIL THEN OFF-LOADED ONTO HEAVY-HAUL TRUCKS FOR TRANSPORT TO NTS. EVENTUALLY, THE BILL REQUIRES DOE TO CONSTRUCT AND OPERATE A RAIL SPUR ACROSS LINCOLN COUNTY PROVIDING ACCESS TO NTS. EACH OF THESE ACTIVITIES WILL BE CHARACTERIZED BY RISKS AND BENEFITS. THE AMENDMENTS TO HR 1020 WHICH I AM SUPPORTING TODAY WILL HELP TO ENSURE THAT SAID RISKS ARE MINIMIZED AND BENEFITS MAXIMIZED LOCALLY.

IN RESPONSE TO A REQUEST FROM CHAIRMAN YOUNG, LINCOLN COUNTY STAFF HAVE OFFERED SUGGESTED LAND RELATED AMENDMENTS TO HR 1020. THE AMENDMENTS TO THE BILL FOR WHICH WE SEEK COMMITTEE SUPPORT INCLUDE THE FOLLOWING:

**INITIAL TRANSFER OF LAND** -LINCOLN COUNTY SUPPORTS THE IMMEDIATE TRANSFER OF SPECIFIC PARCELS OF PUBLIC LAND TO THE COUNTY. AS SHOWN ON THE ATTACHED TABLE, THESE LANDS WILL BE USED TO

SUPPORT COMMUNITY EXPANSION AND DEVELOPMENT. REPOSITORY SYSTEM ACTIVITIES IN THE COUNTY ARE EXPECTED TO STIMULATE DEMANDS FOR RESIDENTIAL, COMMERCIAL, INDUSTRIAL AND PUBLIC FACILITY DEVELOPMENT. LANDS IDENTIFIED FOR IMMEDIATE TRANSFER TO THE COUNTY ARE GENERALLY LOCATED ADJACENT TO EXISTING COMMUNITIES. IT IS IMPORTANT TO NOTE THAT THE APPROXIMATELY 12,500 ACRES PROPOSED FOR TRANSFER REPRESENTS LESS THAN THREE-TENTHS OF ONE PERCENT OF THE TOTAL LAND AREA OF LINCOLN COUNTY. AS IS ILLUSTRATED BY THE ATTACHED FIGURE, NINETY-SEVEN PERCENT OF THE LAND AREA IN LINCOLN COUNTY IS ADMINISTERED BY THE FEDERAL GOVERNMENT. THE CURRENT LACK OF LAND OWNERSHIP DIVERSITY IN THE COUNTY CONTRIBUTES SIGNIFICANTLY TO THE AREA'S NARROW ECONOMIC BASE.

SUBSEQUENT TRANSFER OF LAND -WITH EIGHTY-SEVEN PERCENT OF NEVADA'S LAND AREA UNDER FEDERAL CONTROL, THE ECONOMIC DIVERSIFICATION LIMITATIONS FACING LINCOLN COUNTY ARE ENDEMIC OF PROBLEMS RECURRING THROUGH-OUT NEVADA. LINCOLN COUNTY SUPPORTS ESTABLISHMENT OF A PROCESS HEREBY, NEVADA COUNTIES AND THE STATE OF NEVADA COULD OVER A PERIOD OF TIME ASSUME TITLE TO ADDITIONAL LAND AREAS NOW ADMINISTERED BY THE FEDERAL GOVERNMENT. SUCH A PROCESS WOULD RECOGNIZE THAT MANAGEMENT OF THE NATION'S SPENT NUCLEAR FUEL AND OTHER HIGH-LEVEL RADIOACTIVE WASTES WILL IMPACT UPON ALL OF NEVADA. WITH REGARD TO THE TOTAL PMOUNT OF PUBLIC LAND WHICH MIGHT BE MADE AVAILABLE TO COUNTIES AND THE STATE UNDER THIS PROGRAM, I WOULD SUGGEST THAT AN AREA EQUAL TO THE NEVADA TEST SITE BE CONSIDERED. NTS LANDS HAVE BEEN WITHDRAWN FROM MULTIPLE-USE



AND BECAUSE OF ENVIRONMENTAL AND SECURITY CONSTRAINTS MAY NOT IN THE FUTURE BE AVAILABLE FOR OTHER NON-FEDERAL USES.

**RELEASE OF CERTAIN LANDS FROM WILDERNESS STUDY AREA STATUS** - AS SHOWN IN THE ATTACHED TABLE, THE BUREAU OF LAND MANAGEMENT HAS IDENTIFIED 16 AREAS TOTALING IN EXCESS OF 1.1 MILLION ACRES AS WILDERNESS STUDY AREAS (WSA'S) WITHIN OR ADJACENT TO LINCOLN COUNTY FOR NEARLY TEN YEARS, THE LANDS WITHIN THESE AREAS HAVE BEEN CLOSED TO ENTRY FOR MINING AND OTHER LAND SUES. THE BUREAU OF LAND MANAGEMENT HAS DETERMINED THAT OVER HALF OF THE WSA ACREAGE IN LINCOLN COUNTY SHOULD NOT BE DESIGNATED AS WILDERNESS. YET THESE VAST LAND AREAS REMAIN IN THE RESTRICTIVE WSA STATUS. OF PARTICULAR RELEVANCE TO HR 1020, TWO WSA'S (NV-040-242 AND NV-040-246) ARE LOCATED IMMEDIATELY ADJACENT TO THE RAIL SPUR ALIGNMENT DESCRIBED WITHIN THE BILL. IN ADDITION, WSA'S NV-050-1R-16 A,B,C AND NV-050-201 ARE IMMEDIATELY ADJACENT TO AN EXISTING UTILITY CORRIDOR IN WHICH FURTHER DEVELOPMENT CONTINUES TO BE UNNECESSARILY RESTRICTED. REMOVAL OF CERTAIN WSA'S FROM STUDY STATUS WILL ENABLE LINCOLN COUNTY TO PROCEED WITH IMPORTANT LAND USES SUCH AS ESTABLISHMENT OF FIBER OPTIC LINKS. OTHER IMPORTANT LAND USES SUCH AS MINING AND RANGE IMPROVEMENTS WILL ALSO BE ENABLED TO PROCEED.

TO REMEDY WSA ISSUES OF CONCERN TO LINCOLN COUNTY, THE FOLLOWING AMENDMENT TO HR 1020 IS SUGGESTED: Section 201, Railroad should be amended by adding thereto a new subsection 5 as follows:

*"(5) All lands within Bureau of Land Management wilderness study units NV-040-158, NV-040-177, NV-040-197, NV-040-242, NV-040-246, NV-050-177, NV-050-201, and NV-050-1R-16 A,B, and C are deemed to have been adequately studied and shall be released from further review under section 603 of the Federal Land Policy and Management Act."*

ADOPTION OF THIS AMENDMENT BY THE COMMITTEE WILL REMOVE AN ESTIMATED 489,582 ACRES FROM WILDERNESS STUDY AREA STATUS. THIS AMOUNT REPRESENTS 80,147 ACRES MORE THAN WHAT BLM ITSELF HAS RECOMMENDED BE RELEASED FROM WSA STATUS. WITHIN AND ADJACENT TO LINCOLN COUNTY, AN ESTIMATED 618,071 ACRES WILL REMAIN IN WILDERNESS STUDY AREA STATUS.

**SHARED USE OF RAIL SPUR** - THE RAIL SPUR ACROSS LINCOLN COUNTY CONTEMPLATED BY HR 1020 CAN SUPPORT IMPORTANT ECONOMIC DEVELOPMENT INITIATIVES. THE POTENTIAL FOR RENEWED MINING AND PRODUCTION OF FOSSIL FUELS IN THE VICINITY OF THE RAIL CORRIDOR WILL ONLY OCCUR HOWEVER, IF SUCH INDUSTRIES ARE AFFORDED THE OPPORTUNITY TO UTILIZE THE SPUR. TO FACILITATE SHARED USE OF THE RAIL LINE BUILT ACROSS PUBLIC LANDS, THE FOLLOWING AMENDMENT IS PROPOSED: Section 201. Railroad should be amended by adding thereto a new subsection h as follows:

*"(h) SHARED USE -- That portion of the rail spur developed by the Secretary pursuant to this Act located outside of the Nellis Air Force Range and the Nevada Test Site shall be made available for shared use by other governmental and private entities."*

**MITIGATION OF LOST GRAZING CAPACITY -LINCOLN COUNTY IS CONCERNED THAT CONSTRUCTION AND OPERATION OF THE RAIL SPUR DESCRIBED IN HR 1020 WILL RESULT IN SIGNIFICANT IMPACTS TO THE RANGE LIVESTOCK INDUSTRY. THE COUNTY HAS LITTLE CONFIDENCE THAT DOE COMPLIANCE WITH NEPA WILL NECESSARILY RESULT IN EFFECTIVE MITIGATION OF IMPACTS TO FORAGE AVAILABILITY AND LIVESTOCK DISTRIBUTION. TO ENSURE THAT POTENTIAL IMPACTS TO GRAZING ARE MITIGATED, THE COUNTY REQUESTS THAT THE COMMITTEE ADOPT THE FOLLOWING AMENDMENT TO HR 1020.**

Subsection d of Section 201. Railroad should be amended by adding thereto a new subpart (4) as follows:

*"(4) Notwithstanding the findings contained within any environmental document prepared pursuant to this Act, the Secretary shall provide for rangeland improvements as necessary to mitigate losses in forage for livestock, restricted access to stockwater, and impediments to livestock distribution resulting from construction and operation of the rail spur authorized pursuant to this Act. Compliance by the Secretary with this subpart shall result in a significant increase in forage available for livestock upon grazing allotments impacted by rail spur construction and operation."*

LET ME CLOSE BY INDICATING THAT THE RECOMMENDATIONS I HAVE JUST OFFERED HAVE NOT BEEN FORMED IN THE WOMB OF IGNORANCE. TO THE CONTRARY, THESE RECOMMENDATIONS HAVE EVOLVED DURING TEN YEARS OF CAREFUL CONSIDERATION OF THE RISKS AND BENEFITS OF RADIOACTIVE WASTE MANAGEMENT. LINCOLN COUNTY AND THE CITY OF CALIENTE FIRMLY BELIEVE THE MOST EFFECTIVE WAY TO MINIMIZE THE RISKS AND MAXIMIZE THE BENEFITS OF RADIOACTIVE WASTE

TRANSPORTATION THROUGH NEVADA IS TO BECOME EFFECTIVELY INVOLVED IN SHAPING THE CONDITIONS UNDER WHICH SUCH TRANSPORT WILL OCCUR. BY TAKING APPROPRIATE STEPS TO EMPOWER LOCAL JURISDICTIONS TO EFFECTIVELY PARTICIPATE IN RISK MANAGEMENT AND BENEFIT ENHANCEMENT ACTIVITIES, I BELIEVE THE CONGRESS CAN ESTABLISH A RADIOACTIVE WASTE MANAGEMENT PROGRAM WHICH IS GOOD OF THE PEOPLE OF THIS NATION, THE STATE OF NEVADA AND AFFECTED UNITS OF LOCAL GOVERNMENT.

THANK YOU.

**Summary  
BLM to Lincoln County/City of Caliente  
HR 1020 Land Transfers**

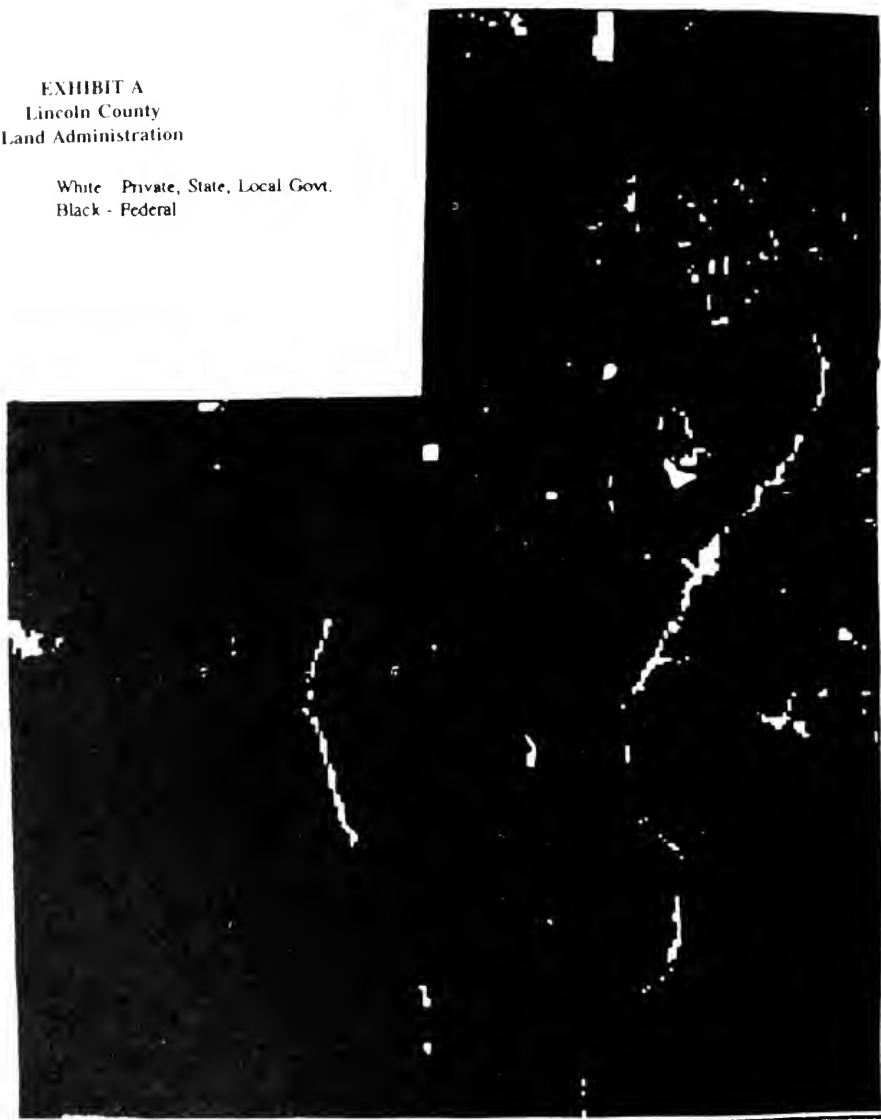
Parcel Identification	Approximate Acreage	BLM Transfer to	Intended Use
A	240	City of Caliente	landfill
B	2,640	City of Caliente	residential, commerical, industrial, public facilities (mixed use)
C	480	City of Caliente	community recreation
D	320	City of Caliente	community recreation
E	2,080	Lincoln County	mixed use
F	2,240	Lincoln County	mixed use
G	760	Lincoln County	airport/industrial
H	1,280	Lincoln County	mixed use
I	640	Lincoln County	airport
J	1,920	Lincoln County	mixed use/airport/landfill
K	1,200	Lincoln County	mixed use
L	1,420	Lincoln County	airport/industrial
M	960	Lincoln County and City of Caliente jointly	industrial
Total	16,180 <sup>1</sup>		

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<sup>1</sup>Represents less than .3 percent of the total land use of Lincoln County. Ninety-seven percent of Lincoln County land area is administered by federal government.

EXHIBIT A  
Lincoln County  
Land Administration

White - Private, State, Local Govt.  
Black - Federal



**Status of BLM Wilderness Study Areas  
Contained Wholly or Partially Within Lincoln County, Nevada**

Area Identification	Initial Study Area (acres)	Area Recommended for Wilderness (acres)
NV-040-158	96,916	0
NV-040-169	73,216	30,115
NV-040-172	53,224	42,316
NV-040-177	41,615	0
NV-040-197	35,958	0
NV-O40-202	24,065	24,065
NV-O40-242	47,633	26,587
NV-O40-246	88,175	53,560
NV-050-132	28,600	28,395
NV-050-139	84,935	84,875
NV-050-156	185,744	97,180
NV-050-161	162,887	123,30
NV-050-166	5,400	2,180
NV-050-177	126,257	0
NV-050-201	50,334	0
NV-050-1R-16 A,B,C	2,694	0
<b>Total</b>	<b>1,107,653</b>	<b>512,403</b>

Source: Department of Interior, Wilderness Status Map, State of Nevada, Bureau of Land Management, May 1992.

TESTIMONY OF YVONNE CULVERWELL  
VICE CHAIRMAN, BOARD OF LINCOLN COUNTY COMMISSIONERS  
PERTAINING TO HR 1020

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS YVONNE CULVERWELL AND I AM VICE CHAIRMAN OF THE BOARD OF LINCOLN COUNTY COMMISSIONERS. I APPRECIATE YOUR INVITATION TO APPEAR TODAY TO ADDRESS HR 1020. MY COMMENTS WILL COMPLIMENT AND NOT DUPLICATE THOSE OF COMMISSIONER WRIGHT AND MAYOR PHILLIPS. AS YOU CONSIDER VARIOUS PROPOSALS TO AMEND HR 1020, I AM PARTICULARLY CONCERNED THAT THIS COMMITTEE UNDERSTAND WHAT WE IN LINCOLN COUNTY HAVE BEEN THROUGH THE PAST SEVERAL MONTHS IN ORDER TO PRESERVE OUR RIGHT AS LOCAL GOVERNMENTS TO PROVIDE INPUT TO THE CONGRESS ON MATTERS AFFECTING THE PUBLIC HEALTH, SAFETY AND WELFARE OF OUR RESIDENTS.

DURING DECEMBER OF 1994, IT BECAME APPARENT TO SEVERAL OTHER LINCOLN COUNTY AND CITY OF CALIENTE ELECTED OFFICIALS AND I THAT THE CONGRESS WAS PREPARED TO TAKE STEPS THAT WOULD RESULT IN SPENT NUCLEAR FUEL AND OTHER HIGH-LEVEL RADIOACTIVE WASTE TO BEGIN ARRIVING IN NEVADA FOR STORAGE AND DISPOSAL AS SOON AS 1998. UNLIKE OTHER NEVADA POLITICIANS, WE WERE UNWILLING TO PRETEND THAT THE WILL OF THE NATION WAS NOT MOVING AGAINST OUR STATE. RATHER, COMMISSIONER WRIGHT, THE ENTIRE CALIENTE CITY COUNCIL, AND I CHOSE TO ADOPT AND FORWARD TO THE SECRETARY OF ENERGY A SET OF RECOMMENDATIONS DESIGNED TO MINIMIZE RISKS AND MAXIMIZE BENEFITS ASSOCIATED WITH ANTICIPATED CONGRESSIONAL ACTIONS. JOINT RESOLUTION 2-95, AS ADOPTED BY THE COUNTY AND CITY INCLUDED 16 SUGGESTED ACTIONS DEALING WITH FACILITY SITING, COMPENSATION, TRANSPORTATION MODE, EMERGENCY MANAGEMENT, PROCUREMENT OUTREACH, AND LABOR PARTICIPATION.



IMMEDIATELY FOLLOWING ADOPTION OF JR 2-95, THE NEVADA ATTORNEY GENERAL FILED A LAWSUIT SEEKING TO PREVENT THE COUNTY AND CITY FROM COMMUNICATING WITH THE CONGRESS. IN ADDITION, THE ATTORNEY GENERAL FILED A LEGAL COMPLAINT SEEKING TO REMOVE COMMISSIONER WRIGHT, THE ENTIRE CALIENTE CITY COUNCIL, AND MYSELF FROM OFFICE. THE COMPLAINT CLAIMED THAT WE HAD CONSPIRED WITH THE FEDERAL GOVERNMENT TO VIOLATE NEVADA STATE LAW WHICH PROHIBITS THE STORAGE OF HIGH-LEVEL RADIOACTIVE WASTE IN THE STATE. IN RESPONSE TO THE LAWSUITS, THE NEVADA LEGISLATURE PASSED RESOLUTIONS CONDEMNING THE ACTIONS BY THE ATTORNEY GENERAL. UNDAUNTED, THE ATTORNEY GENERAL ULTIMATELY AMENDED HER COMPLAINT CLAIMING THAT THE COUNTY AND CITY HAVE MISMANAGED AND ILLEGALLY UTILIZED NUCLEAR WASTE FUND MONIES PROVIDED FOR OVERSIGHT ACTIVITIES. IRONICALLY, THE ATTORNEY GENERAL CLAIMED THAT USE OF SAID MONIES FOR TRAVEL TO WASHINGTON TO TESTIFY BEFORE CONGRESS ON NUCLEAR WASTE MATTERS WAS ILLEGAL. OBVIOUSLY, THE COUNTY DOES NOT AGREE, AND WE ARE HERE BEFORE YOU TODAY. WERE IT NOT FOR THE PROVISION BY CONGRESS OF NUCLEAR WASTE FUND MONIES TO LINCOLN COUNTY, WE WOULD NOT BE ABLE TO EFFECTIVELY INTERACT WITH THIS COMMITTEE OR THE DEPARTMENT OF ENERGY.

WHILE ALL THESE LEGAL MANEUVERS WERE BEING UNDERTAKEN, A RECALL PETITION WAS CIRCULATED SEEKING TO RECALL ME FROM OFFICE BECAUSE OF MY SUPPORT FOR JR 2-95. A RECALL ELECTION WAS HELD, IN WHICH I WAS CHALLENGED BY A CANDIDATE SELECTED BY ANTI-NUCLEAR ACTIVISTS. THE ELECTION WAS BILLED BY THE NEVADA ATTORNEY GENERAL'S OFFICE AS A NUCLEAR REFERENDUM. I SOUNDLY DEFEATED

MY CHALLENGER WINNING THE CITY OF CALIENTE BY OVER 70 PERCENT. FACING WITH AND STRONGER LEGAL DEFENSE AND THE KNOWLEDGE THAT MANY OF THE ACCUSATIONS MADE ABOUT THE COUNTY AND CITY FIT THE STATE OF NEVADA AS WELL, THE ATTORNEY GENERAL AGREED TO DROP HER LAWSUITS JUST TWO WEEKS AGO. LOCAL GOVERNMENTS THROUGHOUT NEVADA SCORED A VICTORY AND CAN BE ASSURED NOW OF THEIR RIGHT TO TAKE NECESSARY STEPS TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE OF THEIR RESIDENTS.

ALL OF THIS BRINGS ME TO HR 1020 AND PROPOSALS TO AMEND THE LEGISLATION. YOU HAVE HEARD THAT LINCOLN COUNTY SUPPORTS THE INITIAL AND SUBSEQUENT TRANSFER OF PUBLIC LAND TO COUNTIES AND THE STATE FOR COMMUNITY/ECONOMIC DEVELOPMENT PURPOSES. WITHOUT THE AVAILABILITY OF ADDITIONAL LAND, LINCOLN COUNTY WILL BE UNABLE TO CAPITALIZE ON POTENTIAL WASTE MANAGEMENT RELATED GROWTH AND ECONOMIC ACTIVITY. CERTAIN OF THESE PARCELS WILL ALSO SUPPORT CRITICAL COMMUNITY SERVICE FACILITY NEEDS.

I UNDERSTAND THAT CONSIDERATION MAY BE BEING GIVEN TO RELOCATING THE INTERMODAL TRANSFER FACILITY CURRENTLY PROPOSED FOR CALIENTE TO THE CRESTLINE AREA OF LINCOLN COUNTY. LINCOLN COUNTY WOULD NOT SUPPORT LOCATION OF THE INTERMODAL TRANSFER FACILITY AT CRESTLINE. SUCH A PROPOSAL WOULD REQUIRE HEAVY-HAUL TRUCKS TO OPERATE THROUGH BOTH THE COMMUNITY OF PANACA AND THE CITY OF CALIENTE. THE COUNTY AND CITY HAVE HAD THE UNIVERSITY OF NEVADA, LAS VEGAS CONDUCT TRANSPORTATION RISK ASSESSMENTS IN OUR AREA. THESE STUDIES HAVE DEMONSTRATED

THAT RAIL TRANSPORT IS PREFERABLE TO HIGHWAY. CONSEQUENTLY, WE WOULD PREFER TO SEE SHIPMENTS MOVE BY RAIL THROUGH THE COUNTY TO CALIENTE. FOLLOWING TRANSFER FROM RAIL TO TRUCK, THE SHIPMENTS WOULD TRAVEL TO THE NEVADA TEST SITE WITHOUT HAVING TO CROSS ANY OTHER COMMUNITIES IN LINCOLN COUNTY. THE CALIENTE LOCATION IS ALSO PREFERABLE DUE TO THE IMMEDIATE AVAILABILITY OF EMERGENCY FIRST RESPONDERS.

LET ME CLOSE BY REITERATING THAT I AND MY FELLOW ELECTED OFFICIALS IN LINCOLN COUNTY AND THE CITY OF CALIENTE HAVE BEEN DRAINED EMOTIONALLY AND FINANCIALLY IN AN ATTEMPT TO PROTECT OUR RIGHT TO BE HERE TODAY. I SINCERELY HOPE THAT THIS COMMITTEE AND CONGRESS AS A WHOLE TAKES SERIOUSLY THE VARIOUS RECOMMENDATIONS WE HAVE AND WILL CONTINUE TO OFFER. YOUR CONSIDERATION OF ADOPTING AN AMENDED HR 1020 WHICH INCORPORATES EACH OF THE AMENDMENTS MAYOR PHILLIPS, COMMISSIONER WRIGHT AND I HAVE SUPPORTED HERE TODAY IS GREATLY APPRECIATED.

THANK YOU.

**TESTIMONY OF MAYOR KEVIN PHILLIPS  
CITY OF CALIENTE, NEVADA  
PERTAINING TO HR 1020**

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS KEVIN PHILLIPS AND I AM MAYOR OF THE CITY OF CALIENTE, NEVADA. LET ME BEGIN BY THANKING YOU FOR INVITING ME TO SHARE MY CITY'S PERSPECTIVE ON CERTAIN ASPECTS OF HR 1020. I BELIEVE YOU WILL FIND MY COMMENTS HELPFUL TO YOUR EFFORTS TO RESOLVE THE NATION'S RADIOACTIVE WASTE MANAGEMENT PROBLEM.

AS ADOPTED BY THE HOUSE COMMERCE COMMITTEE, HR 1020 WILL REQUIRE THAT THE CITY OF CALIENTE SERVE AS HOST TO INTERMODAL TRANSFER AND OTHER SPENT NUCLEAR FUEL TRANSPORT OPERATIONS. THE CITY HAS WORKED CLOSELY WITH COMMERCE COMMITTEE MEMBERS AND STAFF TO ENSURE THAT HR 1020 RELATED RISKS ARE MINIMIZED AND BENEFITS MAXIMIZED. INCLUSION BY THE COMMERCE COMMITTEE OF MANY CITY SUGGESTED AMENDMENTS TO HR 1020 WILL RESULT IN A RADIOACTIVE WASTE MANAGEMENT SYSTEM WHICH IS SENSITIVE TO LOCAL ISSUES. IN LIKE MANNER, I BELIEVE THAT ADOPTION BY THE RESOURCES COMMITTEE OF CITY SUGGESTED AND/OR SUPPORTED AMENDMENTS TO HR 1020 WILL FURTHER SERVE TO MITIGATE COMMUNITY LOCAL CONCERNS.

AT THE REQUEST OF CONGRESSMAN YOUNG, I AND MY STAFF HAVE BEEN WORKING CLOSELY WITH COMMITTEE STAFF TO DEFINE A SET OF PROPOSED AMENDMENTS TO HR 1020 WHICH ADDRESS PUBLIC LAND MATTERS. ONE SUCH AMENDMENT WOULD IMMEDIATELY TRANSFER TITLE TO APPROXIMATELY 3,680 ACRES OF LAND NOW ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT TO THE CITY OF CALIENTE. A LISTING OF THE PARCELS AND INTENDED USE IS ATTACHED. THIS PROVISION IS CRITICAL IF CALIENTE IS TO BE ABLE TO GROW. THE CITY IS ESSENTIALLY SURROUNDED BY FEDERAL LAND, MAKING EXPANSION A

DIFFICULT, COSTLY, AND DRAWN-OUT PROCESS. AS DOE WASTE MANAGEMENT ACTIVITIES ACCELERATE IN AND AROUND THE CITY, IT IS ESSENTIAL THAT COMMUNITY EXPANSION BE POSSIBLE.

THE PROPOSED PARCELS OF LAND TO BE TRANSFERRED TO THE CITY WOULD FACILITATE RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL DEVELOPMENT. THE PROPOSAL WILL ALSO ENABLE DEVELOPMENT OF MUCH NEEDED COMMUNITY LEISURE FACILITIES THROUGH DEVELOPMENT OF TRANSFERRED LANDS IDENTIFIED AS POTENTIAL RECREATION SITES. IN ADDITION, THE CITY WILL ACQUIRE A SITE TO ESTABLISH ITS NEW COMMUNITY LANDFILL COMPLEX. DOE ACTIVITIES IN AND AROUND CALIENTE WILL RESULT IN INCREASED DEMANDS FOR DISPOSAL OF SOLID WASTES. THIS INCREASED DEMAND COUPLED WITH EVER-EXPANDING FEDERAL LANDFILL REQUIREMENTS MAKE ACQUISITION AND DEVELOPMENT OF A NEW SOLID WASTE DISPOSAL FACILITY IMPERATIVE. THE INTERIOR DEPARTMENT TO COMMUNITY LAND TRANSFER ASPECT OF HR 1020 WILL HELP CALIENTE TO FULFILL ITS COMMUNITY SERVICE OBLIGATIONS.

IN ADDITION, THE PROPOSED IMMEDIATE LAND TRANSFER AMENDMENT WOULD ENABLE THE CITY OF CALIENTE TO PURSUE WITH LINCOLN COUNTY THE JOINT DEVELOPMENT OF AN INDUSTRIAL COMPLEX AT CRESTLINE. THE PROPOSED 960 ACRE INDUSTRIAL SITE IS ADJACENT TO THE SWITCH-POINT FROM THE UNION PACIFIC MAINLINE TO THE PROPOSED RAIL SPUR TO YUCCA MOUNTAIN. IN POSSIBLE CONJUNCTION WITH THE LINCOLN COUNTY REGIONAL DEVELOPMENT AUTHORITY, THE CITY AND COUNTY INTEND TO PURSUE LOCATION OF RAIL SPUR OPERATION AND MAINTENANCE ACTIVITIES IN THE PROPOSED INDUSTRIAL PARK. OTHER INTERIM AND PERMANENT STORAGE SUPPORT INDUSTRIES WILL BE TARGETED FOR LOCATION AT THE CRESTLINE INDUSTRIAL SITE.

I BELIEVE THAT THE PROPOSED AMENDMENT TO ACCOMPLISH TRANSFER OF SELECT PARCELS OF PUBLIC LAND TO THE CITY IS CRITICAL TO ENABLING EFFECTIVE COMMUNITY DEVELOPMENT RESPONSES TO WASTE MANAGEMENT ACTIVITIES. THE CITY OF CALIENTE FULLY SUPPORTS THE INITIAL LAND TRANSFER FACET OF PROPOSED AMENDMENTS TO HR 1020.

THE CITY OF CALIENTE ALSO SUPPORTS THE PROPOSED AMENDMENT TO HR 1020 WHICH WOULD FACILITATE SUBSEQUENT TRANSFERS OF LAND TO NEVADA COUNTIES AND THE STATE OF NEVADA. GIVEN THAT 97 PERCENT OF THE LAND IN LINCOLN COUNTY IS ADMINISTERED BY THE FEDERAL GOVERNMENT, THE OPPORTUNITY TO EXPAND NON-FEDERAL LAND OWNERSHIP IS IMPERATIVE TO LOCAL ECONOMIC DIVERSIFICATION. FURTHER THE CITY BELIEVES THAT THE PROVISION FOR SUBSEQUENT TRANSFER OF LANDS RECOGNIZES THE POTENTIAL FOR OTHER COUNTIES IN NEVADA TO BE EFFECTED BY RADIOACTIVE WASTE MANAGEMENT ACTIVITIES IN THE STATE.

IN ADDITION TO SUPPORT FOR THE AMENDMENTS I HAVE OUTLINED IN THIS STATEMENT, IT IS IMPORTANT FOR THE COMMITTEE TO KNOW THE CITY OF CALIENTE STANDS FIRM IN ITS SUPPORT OF ADDITIONAL AMENDMENTS OFFERED BY LINCOLN COUNTY IN TESTIMONY TODAY. TAKEN AS A WHOLE, THE CITY/COUNTY PROPOSALS REPRESENT IMPORTANT COMPONENTS OF AN EFFECTIVE NATIONAL RADIOACTIVE WASTE MANAGEMENT PROGRAM.

LET ME CLOSE BY ENCOURAGING THE COMMITTEE TO RECALL WHAT I AND MY FELLOW LOCAL OFFICIALS HAVE BEEN THROUGH THESE PAST FEW MONTHS. AS A RESULT OF OUR BELIEF THAT HR 1020 WOULD PASS AND THAT WE NEEDED TO RESPOND TO THE BILL WE ADOPTED JOINT RESOLUTION 2-95 WHICH PROVIDED SPECIFIC RECOMMENDATIONS TO THE SECRETARY OF ENERGY. A ~~COPY OF JR 2-95,~~

~~AS RECENTLY AMENDED, IS A PACHISTIA YOUR REFERENCE~~ IN RESPONSE TO OUR PASSAGE OF THE RESOLUTION, THE NEVADA ATTORNEY GENERAL FILED A LAWSUIT TO REMOVE THE ENTIRE CALIENTE CITY COUNCIL AND TWO LINCOLN COUNTY COMMISSIONERS FROM OFFICE. AFTER HAVING BEEN CENSORED BY THE NEVADA LEGISLATURE AND FACING A STIFF LEGAL DEFENSE BY THE COUNTY AND CITY, THE ATTORNEY GENERAL RECENTLY DROPPED HER LAWSUITS.

MY FELLOW ELECTED REPRESENTATIVES OF THE CITY AND LINCOLN COUNTY HAVE PAID A HEAVY FINANCIAL AND EMOTIONAL PRICE TO DEFEND OUR RIGHT TO WORK WITH THE SECRETARY OF ENERGY AND THE CONGRESS TO ENSURE THAT AS HR 1020 MOVES FORWARD THE PUBLIC HEALTH, SAFETY, AND WELFARE OF OUR RESIDENTS IS PROTECTED AND ENHANCED. I TRUST YOU WILL TAKE SERIOUSLY OUR RECOMMENDATIONS FOR FURTHER AMENDMENT OF HR 1020.

THANK YOU.

**Summary**  
**BLM to Lincoln County/City of Caliente**  
**HR 1020 Land Transfers**

Parcel Identification	Approximate Acreage	BLM Transfer to	Intended Use
A	240	City of Caliente	landfill
B	2,640	City of Caliente	residential, commercial, industrial, public facilities (mixed use)
C	480	City of Caliente	community recreation
D	320	City of Caliente	community recreation
E	2,080	Lincoln County	mixed use
F	2,240	Lincoln County	mixed use
G	760	Lincoln County	airport/industrial
H	1,280	Lincoln County	mixed use
I	640	Lincoln County	airport
J	1,920	Lincoln County	mixed use/airport/landfill
K	1,200	Lincoln County	mixed use
L	1,420	Lincoln County	airport/industrial
M	960	Lincoln County and City of Caliente jointly	industrial
Total	16,180 <sup>1</sup>		

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<sup>1</sup>Represents less than .3 percent of the total land use of Lincoln County. Ninety-seven percent of Lincoln County land area is administered by federal government.



**STATEMENT OF  
LORRAINE HUNT, COMMISSIONER  
CLARK COUNTY, NEVADA,  
BOARD OF COMMISSIONERS**

**BEFORE THE  
U.S. HOUSE OF REPRESENTATIVES  
RESOURCES COMMITTEE  
NATIONAL PARKS, FORESTS AND LANDS  
SUBCOMMITTEE**

**HEARING ON H.R. 1020  
THE NUCLEAR WASTE POLICY ACT OF 1995**

**OCTOBER 10, 1995**

**STATEMENT OF LORRAINE HUNT  
CLARK COUNTY, NEVADA, COMMISSIONER  
BEFORE THE  
THE HOUSE RESOURCES COMMITTEE  
SUBCOMMITTEE ON  
NATIONAL PARKS, FORESTS AND LANDS**

**MR. CHAIRMAN, REPRESENTATIVE ENSIGN, AND MEMBERS OF THE  
SUBCOMMITTEE:**

Clark County, Nevada, appreciates the opportunity to provide input to the *Resources Committee, National Parks, Forests and Lands Subcommittee* on *H.R. 1020, The Nuclear Waste Policy Act of 1995*, and related legislation. As requested by the Subcommittee, we are concentrating our testimony on issues associated with their jurisdiction on *H.R. 1020*. It is our intent, however, in the written testimony to provide contextual information as well. It is provided in the order of interest to the Subcommittee. Our objectives are:

- 1) To express our concerns on the proposal in H.R. 1020, as introduced, to construct a rail line through the northern part of the Las Vegas Valley. The Figure attached illustrates the location of the proposed rail routing in the Las Vegas Valley.
- 2) To detail the potential effects of the proposed routing on Clark County, the public health and safety of its citizens, and the vibrancy of its economy, and
- 3) To provide contextual information about recent legislative proposals, in particular, the need for a centralized interim storage facility (ISF), and the selection of Yucca Mountain as the ISF site.
- 4) To provide recommendations to the National Parks, Forests and Lands Subcommittee on important issues consistent with its responsibilities.

**Background**

To set the stage for a better understanding of the potential effects to Clark County from the legislation, it is important that the Subcommittee members understand Clark County as well as its importance to Nevada.

While all Subcommittee members are undoubtedly familiar with Las Vegas and its attractions, you may not be aware that Clark County's one million residents constitute almost two-thirds of Nevada's population. In addition, 90% of Clark County's residents, reside in the Las Vegas Valley.

**Page Two  
Testimony of  
Clark County, Nevada**

Tourism is the key driver of the economy in Southern Nevada. Almost 70 percent of Clark County's 500,000 employees, for example, are employed in industries that provides services and entertainment to the 28 million tourists that visit Las Vegas and Clark County annually.

Likewise, Clark County is the dominant force in Nevada's economy, generating almost two-thirds of Nevada's gaming revenues. To view Clark County's economic strength from another perspective, the County contributes more than half of Nevada's total revenues.

Protecting the health, safety and quality of life of the citizens of Clark County, as well as maintaining the vibrancy of our tourist-based economy, raises serious questions about *H.R. 1020*.

**THE PROPOSED LEGISLATION**

The following are major issues of concern with the proposed Nuclear Waste Policy Act of 1995.

***The Proposed Construction of a Rail Line through the Urbanized Las Vegas Valley***

Of key interest to Clark County is *H.R. 1020*'s direction to the Department of Energy (DOE) to construct a rail line for the transport of nuclear waste. The legislation mandates that land be withdrawn from public purposes for a rail alignment in the ***Quail Springs, and Nellis A, B, and C Wilderness Study Areas***, all of which are located in the northern part of the Las Vegas Valley.

A 1990 DOE report, that examined 13 alternative rail lines within Nevada for the transport of commercial and high level waste to Yucca Mountain, contains a two of the options recommended in the proposed legislation (a composite of the "*Dike*" and "*Valley*" sidings rail routing options noted in that report). Both sidings are located on the existing Union Pacific line almost a dozen miles north of downtown Las Vegas (see the attached figure), and adjacent to rapidly growing areas of the Las Vegas Valley.

While *H.R. 1020* does not specifically name the "*Dike*" or "*Valley*" siding routes in the legislation, it is impossible not to deduce that the legislation contemplates constructing a rail spur in the northern part of the Las Vegas Valley. It is also apparent that alignment for the "spur" was selected not to resolve health and safety questions, but to meet unrealistic schedules as well as to reduce expenditures from the Nuclear Waste Fund.

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Clark County, Nevada

It is ironic that DOE's routing recommendations from the 1990 report rejected both Dike and Valley sidings because of impending urbanization. Urbanization is even a greater factor today.

If the northern Las Vegas Valley routing is selected, the Subcommittee should understand its potential effects on Clark County, and the cities of North Las Vegas, and Las Vegas. The rail alignment, in particular, would adversely impact the Master Plan for the City of North Las Vegas, a rapidly growing community in the northern Las Vegas Valley.

As can be readily seen, a rail route in this area, particularly one transporting spent fuel and high-level nuclear waste could have a dramatic effects on a major 7,500 acre land aquisition and development area contemplated in North Las Vegas' future plans. It would also conflict with a proposed outerbelt slated for construction in the same area.

Introducing the transportation of high level nuclear waste into one of the fastest growing areas of the Las Vegas Valley would have adverse affects. Millions of dollars in investments have been made for residential development, hotels, and casinos near the area of the proposed alignment.

Also affecting development would be potential for thousands of shipments of low-level and mixed waste as well which are being contemplated for final dispoal at the Nevada Test Site, and could be transported over these same rails.

The DOE Environmental Management Program has, in fact, noted that while the EM program could not afford to construct a similar rail line, if a rail line were available, it could be used for the transport of low-level radioactive waste. Thus a rail line in this area would magnify potential transportation impacts from Yucca Mountain activities many times over.

DOE and Congress have often noted the importance of stakeholder involvement in this program. Yet with respect to a proposal that could dramatically affect our community we were not consulted. While we are appreciative of the efforts of the Subcommittee in holding extensive hearings, and in accepting testimony from all parties, with proper consultation this particular problem could have been avoided.

We're confident that in the future Clark County, as well as other affected units of local government (of which there are ten), will be consulted early on similar issues.

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**Clark County, Nevada**

**"Perception" Issues**

Associated with the transport of radioactive waste are a number of issues that are often dismissed as being "perceptual," or, in their true meaning, as having no basis in scientific fact. One interesting issue is that of public perception with respect to property values.

A recent case in New Mexico, for example, (*Komis v. The City of Santa Fe*) awarded a land owner damages because his property value was reduced by knowledge that the property was on a route recommended by the City of Santa Fe for the transport of low-level radioactive waste to the WIPP defense waste site near Carlsbad, New Mexico. This case was upheld by the New Mexico Supreme Court and would seem to set precedent for the "takings" issues currently being considered by Congress. It should be noted that no shipments are planned until 1998.

It should also be noted that transportation is obviously not solely a Clark County or Nevada issue. Many other states and communities throughout the nation will have similar concerns about the transport of high-level waste. Waste transportation issues should, therefore, be a strong component of legislation considering a nation-wide transportation program. H.R. 1020 does not accomplish this important task.

**Other Comments on the Proposed Legislation**

1. The Secretary should implement the full NEPA process with respect to an Interim Storage Facility, railroad access, the Multi-Purpose Canister (MPC), the transportation of the waste, and the repository. Because of the many interrelationships in each of these areas (e.g. the MPC and the repository thermal loading) it is important that a Programmatic Environmental Impact Statement be prepared.

2. Federal, State and local environmental laws or regulations with respect to transportation, interim storage, and the repository should continue to apply without preemption. This is especially important given the potential dangers involved with radioactive waste storage, and the sensitivities of the public to all things radioactive.

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Clark County, Nevada

3. The Secretary should be required to fully implement the provisions of Section 180(c) no later than 36 months prior to the expected shipment of spent fuel to an interim storage facility. Funding should be made available for both training and equipping emergency response teams and medical providers along all shipment routes. ***No shipments should be permitted through areas that have not received such assistance.***

**Observations and Recommendations**

How can we safely resolve this serious national problem? I have several recommendations.

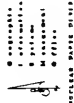
1. The NEPA process should not be accelerated. The objective of NEPA is to ensure that the public and environment is not harmed from "major federal actions." Because of the history and notoriety (for lack of a better term) of things nuclear, every phase of this project should qualify as a "major federal action." This is particularly true with regard to the selection of routes, currently noted as not requiring a full environmental impact statement. Likewise, this would seem to be a key issue with respect to the withdrawal of federal lands.

2. The transportation of nuclear waste will be a national issue notwithstanding the final resting place of the waste. A national policy should be pursued that will minimize potential risks to the public, while avoiding precipitous schedule-driven mandates to DOE. We have cited in this testimony the importance of DOE considering localized impacts in Clark County, and communities such as North Las Vegas. There will be similar localized impacts that DOE will wish to avoid in other areas of the country. Only a comprehensive policy developed in consultation with affected units of local government and the public will enable disruptions to local citizens and economies to be avoided.

3. The transport of highly dangerous radioactive material, if it is to be conducted at all, (there is strong case that the material can be [and in fact is] safely stored on site at reactors in dry casks for at least one hundred years) should not be conducted in urbanized areas.

FIGURE 2:

# RAIL ACCESS ROUTE TO YUCCA MOUNTAIN AS PROPOSED IN SENATE BILL 167



NUCLEAR WASTE DIVISION

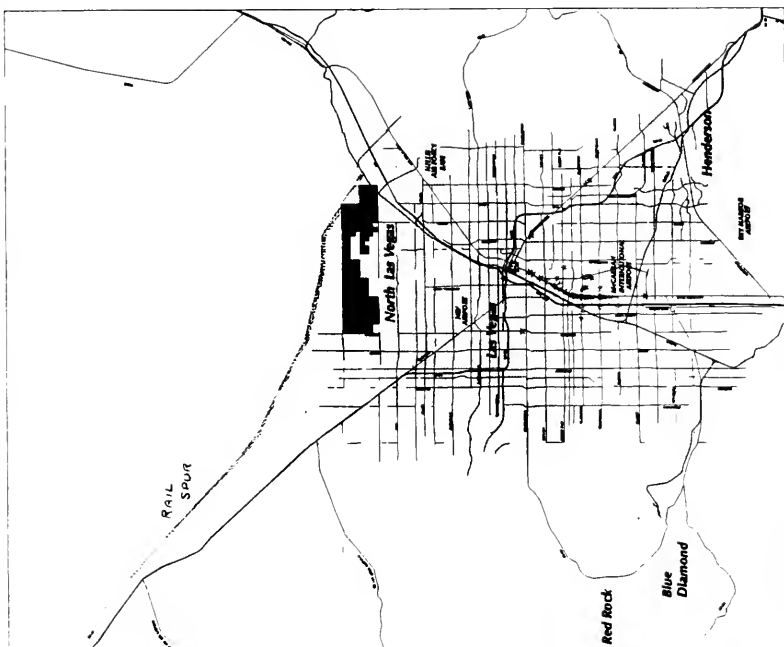
MAP SCALE = 1" = 5000'

DATE COMPLETED: APRIL 26, 1995  
 SOURCES: INTERLUG  
 GIS MANAGEMENT OFFICE  
 CITY OF NORTH LAS VEGAS  
 U.S. DEPARTMENT OF ENERGY

## LEGEND:

- N Major Street
- N I-15, US 89 and 95, and I-515
- N Union Pacific Railroad
- N Las Vegas "Strip" and Casino Center
- Las Vegas
- North Las Vegas
- Henderson
- Unincorporated Clark County
- ▨ Proposed Rail Spur
- Proposed North Las Vegas Land Acquisition
- Hotels

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104TH CONGRESS  
1ST SESSION

# H. R. 1020

To amend the Nuclear Waste Policy Act of 1982.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1995

Mr. UPTON (for himself, Mr. TOWNS, Mr. BILIRAKIS, Mr. MANTON, Mr. STEARNS, Mr. HALL of Texas, Mr. NORWOOD, Mr. GORDON, Mr. BURR, Mrs. THURMAN, Mr. HASTERT, Mr. GILLMOR, Mr. MOORHEAD, Mr. GRAHAM, and Mr. FRANKS of Connecticut) introduced the following bill; which was referred to the Committee on Commerce and, in addition, to the Committees on Resources, Transportation and Infrastructure, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To amend the Nuclear Waste Policy Act of 1982.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 **SECTION 1. NUCLEAR WASTE POLICY ACT OF 1982.**
- 4 The Nuclear Waste Policy Act of 1982 is amended
- 5 to read as follows:



## 1 "SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

2 "(a) SHORT TITLE.—This Act may be cited as the  
 3 "Integrated Spent Nuclear Fuel Management Act of  
 4 1995".

## 5 "(b) TABLE OF CONTENTS.—

"Sec. 1. Short title and table of contents.

"Sec. 2. Definitions.

"Sec. 3. Findings and purposes.

"TITLE I—OBLIGATIONS AND REMEDIES

"Sec. 101. Obligations of the Secretary of Energy.

"Sec. 102. Remedies.

"TITLE II—INTEGRATED SPENT NUCLEAR FUEL MANAGEMENT  
 SYSTEM

"Sec. 201. Establishment of the integrated spent nuclear fuel management system.

"Sec. 202. Railroad.

"Sec. 203. Transportation planning.

"Sec. 204. Transportation requirements.

"Sec. 205. Multi-purpose canister systems.

"Sec. 206. Interim storage.

"Sec. 207. Permanent disposal.

"Sec. 208. Land withdrawal.

"Sec. 209. Private storage facilities.

"TITLE III—STATE RELATIONS

"Sec. 301. State consultation and assistance.

"TITLE IV—FUNDING AND ORGANIZATION

"Sec. 401. Budget priorities.

"Sec. 402. Environmental requirements.

"Sec. 403. Nuclear waste fund.

"Sec. 404. Office of Civilian Radioactive Waste Management.

"Sec. 405. Defense contribution.

"TITLE V—GENERAL AND MISCELLANEOUS PROVISIONS

"Sec. 501. Compliance with other laws.

"Sec. 502. Judicial review of agency actions.

"Sec. 503. Title to material.

"Sec. 504. Licensing of facility expansions and transshipments.

"Sec. 505. Siting a second repository.

"Sec. 506. Financial arrangements for low-level radioactive waste site closure.

"Sec. 507. Nuclear Regulatory Commission training authority.

"TITLE VI—NUCLEAR WASTE TECHNICAL REVIEW BOARD

- "Sec. 601. Definitions.
- "Sec. 602. Nuclear Waste Technical Review Board.
- "Sec. 603. Functions.
- "Sec. 604. Investigatory powers.
- "Sec. 605. Compensation of members.
- "Sec. 606. Staff.
- "Sec. 607. Support services.
- "Sec. 608. Report.
- "Sec. 609. Authorization of appropriations.
- "Sec. 610. Termination of the board.

#### "TITLE VII—MANAGEMENT REFORM

- "Sec. 701. Management reform initiatives.
- "Sec. 702. Reporting.

#### 1 "SEC. 2. DEFINITIONS.

2 "For purposes of this Act:

3 "(1) The term 'accept' or 'acceptance' means  
4 the Secretary's act of taking title to and possession  
5 of commercial spent nuclear fuel and high-level ra-  
6 dioactive waste pursuant to contracts and removing  
7 such spent nuclear fuel and high-level waste from  
8 the sites designated by the contract holders pursuant  
9 to such contracts.

10 "(2) The term 'acceptance schedule' means the  
11 schedule established pursuant to the contracts for  
12 acceptance by the Secretary of spent nuclear fuel  
13 and high-level radioactive waste from the contract  
14 holders. The acceptance schedule shall be imple-  
15 mented in accordance with the following:

16 "(A) Acceptance priority ranking shall be  
17 determined by the Department's annual 'Ac-  
18 ceptance Priority Ranking' report.

tract holder sites and transporting such fuel or waste to the private storage facility.

“(f) ADDITIONAL REMEDIES.—The remedies provided under this section are in addition to any legal or contractual remedies that are otherwise available to a contract holder.

## “TITLE II—INTEGRATED SPENT NUCLEAR FUEL MANAGEMENT SYSTEM

### “SEC. 201. ESTABLISHMENT OF THE INTEGRATED SPENT NUCLEAR FUEL MANAGEMENT SYSTEM.

“There is established an integrated spent nuclear fuel management system for the management of spent nuclear fuel and high-level radioactive waste by the Secretary, including the storage, transportation, and disposal of such spent nuclear fuel and high-level radioactive waste.

### “SEC. 202. RAILROAD.

“(a) AUTHORIZATION.— The Secretary shall acquire rights of way within the corridor designated in subsection (b) as provided in this section and shall construct and operate, or cause to be constructed and operated, a railroad and such facilities as are required to transport spent nuclear fuel and high-level radioactive waste from existing rail systems to the interim storage facility and the repository.

1       “(b) ROUTE DESIGNATION.—

2               “(1) The Secretary shall acquire such rights of  
3       way and develop such facilities within the corridor  
4       depicted on the map dated \_\_\_\_\_ and on file with  
5       the Secretary.

6               “(2) Within 6 months of the date of the enact-  
7       ment of this Act, the Secretary shall—

8                       “(A) publish in the Federal Register a no-  
9       tice containing a legal description of the cor-  
10      ridor; and

11                      “(B) file copies of the map described in  
12      paragraph (1) and the legal description of the  
13      corridor with the Congress, the Secretary of the  
14      Interior, the Governor of Nevada, and the Ar-  
15      chivist of the United States.

16               “(3) The map and legal description referred to  
17      in paragraph (2) shall have the same force and ef-  
18      fect as if they were included in this Act. The Sec-  
19      retary may correct clerical and typographical errors  
20      in the map and legal description.

21       “(c) WITHDRAWAL AND RESERVATION.—

22               “(1) Subject to valid existing rights, the public  
23      lands depicted on such map are withdrawn from all  
24      forms of entry, appropriation, and disposal under  
25      the public land laws, including without limitation the

1 mineral leasing laws, the geothermal laws, the mate-  
2 rial sale laws, and the mining laws.

3 “(2) Jurisdiction of such land is transferred  
4 from the Secretary of the Interior to the Secretary  
5 of Energy.

6 “(3) Such lands are reserved for the use of the  
7 Secretary for the construction and operation of such  
8 transportation facilities and associated activities  
9 under this title.

10 “(4) The lands depicted in the corridor and on  
11 the map that are within Bureau of Land Manage-  
12 ment study units NV-051-411 and NV-050-04R-  
13 15 are deemed to have been adequately studied and  
14 shall be managed consistent with this Title.

15 “(d) NATIONAL ENVIRONMENTAL POLICY ACT.—

16 “(1) The Secretary’s activities in connection  
17 with the designation of a route and the acquisition  
18 of rights of way under this section shall be consid-  
19 ered preliminary decisionmaking activities and shall  
20 not constitute a major Federal action significantly  
21 affecting the quality of the human environment for  
22 purposes of the National Environmental Policy Act  
23 of 1969, shall not require the preparation of an envi-  
24 ronmental impact statement under section 102(2)(C)  
5 of the National Environmental Policy Act of 1969

1 (42 U.S.C. 4332(2)(C)), or any environmental re-  
2 view under subparagraph (E) or (F) of section  
3 102(2) of such Act, and shall not be delayed pending  
4 completion of the environmental impact statement  
5 required under paragraph (2).

6 “(2) Construction and operation of transpor-  
7 tation facilities within the corridor shall constitute a  
8 major Federal action significantly affecting the qual-  
9 ity of the human environment for purposes of the  
10 National Environmental Policy Act of 1969. The  
11 Secretary shall prepare an environmental impact  
12 statement on the construction and operation of such  
13 facilities prior to commencement of construction. In  
14 preparing such statement, the Secretary shall adopt,  
15 to the extent practicable, relevant environmental re-  
16 ports that have been developed by other Federal and  
17 State agencies.

18 “(3) For purposes of complying with the re-  
19 quirements of the National Environmental Policy  
20 Act of 1969 and this section, the Secretary need not  
21 consider the need for the development or improve-  
22 ment of transportation facilities, the timing of the  
23 initial availability of the transportation facilities, al-  
24 ternative routes, or alternative means of transpor-  
25 tation.

1       “(e) CONSTRUCTION.—Notwithstanding any state or  
2 Federal statute, regulation or orders to the contrary, or  
3 the pendency of any judicial proceeding, the Secretary  
4 shall be authorized to commence construction of transpor-  
5 tation facilities upon compliance with the requirements of  
6 subsections (a) through (d). No court shall have jurisdic-  
7 tion to enjoin the construction of the transportation facili-  
8 ties authorized by this section except upon its entry of a  
9 final order that the construction is not in accord with the  
10 provisions of applicable law.

11       “(f) EXEMPTION.—Neither the Secretary nor any  
12 person constructing or operating railroad facilities under  
13 contract with the Secretary under this section shall be con-  
14 sidered a rail carrier within the meaning of the Interstate  
15 Commerce Act (49 U.S.C. 10102 (19)) and shall not be  
16 subject to the jurisdiction of the Interstate Commerce  
17 Commission.

18 **“SEC. 203. TRANSPORTATION PLANNING.**

19       “(a) TRANSPORTATION READINESS.—The Secretary  
20 shall take those actions that are necessary and appropriate  
21 to ensure that the Secretary is able to accept spent nuclear  
22 fuel and high-level radioactive waste at the sites des-  
23 ignated by the contract holders, in accordance with the  
24 acceptance schedule, beginning not later than January 31,  
25 1998, and transport such fuel or waste to mainline trans-

1 the Yucca Mountain site, or nongeologic alternatives  
2 to such site.

3 “(f) JUDICIAL REVIEW.—No court shall have juris-  
4 diction to enjoin issuance of the Commission repository  
5 licensing regulations prior to its final decision on review  
6 of such regulations.

7 **“SEC. 208. LAND WITHDRAWAL.**

8 “(a) WITHDRAWAL AND RESERVATION.—

9 “(1) Subject to valid existing rights, the interim  
10 storage facility site and the Yucca Mountain site, as  
11 described in subsection (b), are withdrawn from all  
12 forms of entry, appropriation, and disposal under  
13 the public land laws, including without limitation the  
14 mineral leasing laws, the geothermal leasing laws,  
15 the material sale laws, and the mining laws.

16 “(2) Jurisdiction of any land within the interim  
17 storage facility site and the Yucca Mountain site  
18 managed by the Secretary of the Interior, the Sec-  
19 retary of Defense, or any other Federal officer is  
20 transferred to the Secretary.

21 “(3) The interim storage facility site and the  
22 Yucca Mountain site are reserved for the use of the  
23 Secretary for the construction and operation, respec-  
24 tively, of the interim storage facility and the reposi-



1       tory and activities associated with the purposes of  
2       this title.

3       “(b) LAND DESCRIPTION.—

4           “(1) The boundaries depicted on the map enti-  
5       tled ‘Interim Storage Facility Site Withdrawal Map,’  
6       dated \_\_\_\_\_, and on file with the Secretary, are es-  
7       tablished as the boundaries of the Interim Storage  
8       Facility site.

9           “(2) The boundaries depicted on the map enti-  
10      tled ‘Yucca Mountain Site Withdrawal Map,’ dated  
11      \_\_\_\_\_, and on file with the Secretary, are estab-  
12      lished as the boundaries of the Yucca Mountain site.

13          “(3) Within 6 months of the date of the enact-  
14      ment of this Act, the Secretary shall—

15           “(A) publish in the Federal Register a no-  
16      tice containing a legal description of the interim  
17      storage facility site; and

18           “(B) file copies of the maps described in  
19      paragraph (1), and the legal description of the  
20      interim storage facility site with the Congress,  
21      the Secretary of the Interior, the Governor of  
22      Nevada, and the Archivist of the United States.

23          “(4) Concurrent with the Secretary’s applica-  
24      tion to the Commission for authority to construct  
25      the repository, the Secretary shall—

1           “(A) publish in the Federal Register a no-  
2           tice containing a legal description of the Yucca  
3           Mountain site; and

4           “(B) file copies of the maps described in  
5           paragraph (2), and the legal description of the  
6           Yucca Mountain site with the Congress, the  
7           Secretary of the Interior, the Governor of Ne-  
8           vada, and the Archivist of the United States.

9           “(5) The maps and legal descriptions of the in-  
10          terim storage facility site and the Yucca Mountain  
11          site referred to in this subsection shall have the  
12          same force and effect as if they were included in this  
13          Act. The Secretary may correct clerical and typo-  
14          graphical errors in the maps and legal descriptions  
15          and make minor adjustments in the boundaries of  
16          the sites.

17   **“SEC. 209. PRIVATE STORAGE FACILITIES**

18          “(a) COMMISSION ACTION.—Upon application by one  
19          or more private entities for a license for an independent  
20          spent fuel storage installation not located at the site of  
21          a power reactor, the Commission shall review such license  
22          applications and issue a license for one or more such facili-  
23          ties at the earliest practicable date, to the extent permitted  
24          by the applicable provisions of law and regulation. Any  
25          Environmental Impact Statement prepared by the Com-



SECRETARY OF THE AIR FORCE  
WASHINGTON

SEP 20 1995

The Honorable Don Young  
Chairman, Committee on Resources  
House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

In response to your letter regarding H.R. 1020, legislation to reform the Department of Energy's program for disposal of high level radioactive waste, the Air Force provides the following information. The Air Force understands the national importance of developing a safe and affordable transportation route to Yucca Mountain and wishes to work with you to avoid any potential conflict with Air Force and Department of Defense (DoD) operations conducted on the Nellis ranges.

The Nellis range complex is the Air Force's, and DoD's, premier range for training of operational flying units as well as conducting developmental and operational testing of weapon systems such as the B-1, B-2, F-15, F-16, F-117, F-22 and other classified programs. The Nellis range complex consists of extensive air and ground working areas, live ordnance impact areas, and an extensive array of instrumented threat simulators. The synergistic effect is a high fidelity air combat environment which is used for both training and testing.

We know of no existing radioactive waste route overflight restrictions in other areas of the country. Assuming your legislation or future agreements pose no overflight restrictions, we see minimal impact to the day-to-day training of Air Force and DoD units. However, any route which traverses the range and is subject to overflight restrictions would severely affect national security by reducing Air Force and Joint training. Additionally, it would seriously degrade the training of our friends and Allies. Further, overflight restrictions to either the departure or approach flight corridors to Nellis Air Force Base are considered show stoppers due to the difficulty of safely meeting altitude or flight path restrictions.

In regard to classified programs, there would be significant impacts and in accordance with your request we have provided that information through the House National Security Committee.

The Air Force strongly requests that H.R.1020 be amended to (1) impose no route overflight restrictions and (2) for classified program considerations, designate rail and truck routes which use existing or new routes that avoid Nellis restricted airspace/ranges and Nellis Air Force Base (e.g., arrival and departure corridors).

Notwithstanding the impacts that have been identified, the Air Force is committed to working with the State of Nevada, the Department of Energy, and the Congressional committees in reaching a satisfactory solution.

Sincerely

A handwritten signature in cursive script, appearing to read "Sheila E. Widnall".

Sheila E. Widnall  
Secretary of the Air Force









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